SENATE—*Wednesday, May 6, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

Sovereign Lord, help us to see our work here in government as our divine calling, our mission. Whatever we are called to do today, we want to do our very best for Your glory. Our desire is not just to do different things, but to do the same old things differently: with freedom, joy and excellence. Give us new delight for matters of drudgery, new patience for people who are difficult, new zest for unfinished details. Be our lifeline in the pressures of deadlines, our rejuvenation in routines, and our endurance whenever we feel exhausted. May we spend more time talking to You about issues than we do talking to others about issues. So may our communion with You give us deep convictions and high courage to defend them. Spirit of the living God, fall afresh on us so we may serve with fresh dedication today. In the Lord's Name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. ALLARD. Mr. President, this morning the Senate will resume consideration of H.R. 2676, the IRS reform bill. Under the previous order, Senator ROTH will be immediately recognized to offer his so-called "pay for" amendment. It is hoped that after the Roth amendment is offered Senator KERREY will offer his "pay for" amendment and a short-time agreement can be worked out with respect to both amendments.

As a reminder, an agreement was reached yesterday limiting the bill to relevant amendments. Therefore, it is hoped that the Senate will make good progress on the IRS bill today in an effort to finish this important legislation by tonight or Thursday.

Senators should expect rollcall votes throughout today's session on amendments to the IRS bill, or any other legislative or executive items cleared for action.

I thank my colleagues for their attention.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2676

Mr. ALLARD. Mr. President, I ask unanimous-consent that after Senator ROTH offers his amendment regarding offsets, the amendment be temporarily set aside; further, that Senator KERREY then be recognized to offer his amendment regarding offsets and there then be a total of 1 hour equally divided for debate on both amendments.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I wonder if the chairman of the Finance Committee would mind. We don't have the amendment quite prepared. We may need to modify it slightly in order to deal with the difficulty we are having. I wonder if the UC can be modified so we could be allowed to modify our amendment.

Mr. President, I ask unanimous-consent that the unanimous-consent request be modified so that we be allowed to modify our amendments with a relevant modification.

The PRESIDENT pro tempore. Without objection, it is so ordered.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROTH addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware.

Mr. ROTH. Mr. President, I further ask that at the conclusion or yielding back of time the Senate proceed to vote on the Roth amendment followed by a vote on the Kerrey amendment.

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

Mr. ROTH. Mr. President, before we begin debate today, I would like to offer some comments about the consent agreement that governs the offering of amendments. Basically, amendments that are to be in order must be relevant to the purpose of the IRS reform legislation, which covers three major areas.

First, it reorganizes, restructures, and re-equips the IRS to make it more customer friendly in its tax-collecting mission.

Second, it protects taxpayers from abusive practices and procedures of the IRS.

Third, it deals with the management and conduct of IRS employees.

These are the main purposes of the bill. While there are provisions dealing with electronic filing and congressional oversight, that is basically what this bill does.

Title 6 of the bill is an entirely different matter. That title contains technical amendments that run the breadth of the tax code. In the House of Representatives, this title was reported by the Ways and Means Committee as a separate bill—which, in fact, it is.

Title 6 is unrelated to IRS reform. It contains only technical corrections to previously enacted tax legislation that meet the following criteria:

First, they carry out the original intent of Congress in enacting the provision being amended.

Second, by definition, the technical correction does not score as a revenue gain or loss.

Third, the policy has been approved by the Treasury Department, the Joint Committee on Taxation, and the majority and minority of both the House Ways and Means Committee and the Senate Finance Committee.

As a consequence, amendments which are relevant because of provisions in title 6 must meet a more difficult standard under the consent agreement. They must not only be relevant, but must be cleared by the two managers and the two leaders. And in clearing provisions that relate to title 6, I will apply the same criteria that the provisions of title 6 had to meet to become part of that title.

I hope this explanation provides a clearer understanding of the application of the consent agreement to possible amendments.

AMENDMENT NO. 2339

(Purpose: To ensure compliance with Federal budget requirements)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an amendment numbered 2339.

Mr. ROTH. 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 401, strike line 3, and insert: "beginning after December 31, 1998".

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

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

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"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAS.

(a) IN GENERAL.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

"(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

"(I) any amount included in gross income under subsection (d)(3) shall not be taken into account, and

"(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

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

Does the Senator from Nebraska wish to offer his amendment?

AMENDMENT NO. 2340

(Purpose: To ensure compliance with Federal budget requirements)

Mr. KERREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. KERREY) proposes an amendment numbered 2340.

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 text of the amendment is printed in today's RECORD under "Amendments submitted.")

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

The Senator from Delaware has 30 minutes under his control.

AMENDMENT NO. 2339

Mr. ROTH. Mr. President, I yield myself 5 minutes.

Mr. President, under the Senate's budget rules, the first year, first five years, and second five years of revenue losses in a tax bill must be offset with either mandatory savings or revenue increases.

When the Finance Committee marked up the underlying bill, the first five years of revenue loss were offset. The second five years of revenue loss were not fully offset. The IRS Restructuring bill was short in excess of $9 billion in the last five years. During the markup, I indicated that I would work with the Budget Committee to attempt to find offsets so that the bill would be fully paid for over the last five years.

Finding offsets was not an easy task. Every major revenue raiser I considered brought forth opposition from different members. After several weeks of reviewing options, I have developed a package, in consultation with the leadership.

Mr. President, this pay-for package contains three new revenue raisers and a change to a revenue raiser in the underlying bill.

The first revenue raiser comes from the Administration's budget. This proposal would tighten the definition of operating losses that are eligible for a special ten-year carry back. Congress intended this treatment to be limited to a narrow category of activities. This proposal simply clarifies the types of losses eligible for this special treatment. This proposal is noncontroversial.

The second new revenue raiser relates to the rollover rules for Roth IRAs. Under current law, individuals or married couples with adjusted gross income over $100,000 cannot rollover a traditional IRA into a Roth IRA. For purposes of the $100,000 test, minimum distributions which are required when an IRA beneficiary reaches 70½ are counted as income.

This second new raiser would modify current law by excluding minimum distributions from the $100,000 test. The effect of this proposal is to allow more taxpayers, at age 70½ and above, to rollover from a traditional IRA to a Roth IRA. This proposal will enlarge the group of taxpayers who can enjoy the benefits of the Roth IRA.

The third new raiser would extend the current law user fees charge by the IRS for private letter rulings. This extension would be effective for four years.

Let me note that the IRS restructuring bill uses the balance on the pay-go scorecard of $406 million in the last five years as an offset. We have been informed by the Budget Committee staff that the use of the pay-go balance is appropriate in this instance.

Finally, this amendment modifies an effective date of a revenue raiser in the Finance Committee bill. The proposal modified is the proposal to limit the carry back period of the foreign tax credit. Under this amendment, the effective date of the foreign tax credit raiser has been moved out one year to tax years beginning after 1998.

Now, Mr. President, some on the other side may criticize the most significant new revenue raiser in this package. The target of their criticism is the proposal to allow more older taxpayers to convert to Roth IRAs.

As I see it, those criticizing the rollover provision have the objective of limiting retirement savings choices for taxpayers who reach the end of their working years. For taxpayers who reach 70½, the opponents of the rollover provision are saying those taxpayers should fall under a more restrictive rule than those taxpayers under 70½.

If you are over 70½ and you are a middle income person who has a healthy IRA or pension plan, the opponents of the rollover provision are arguing you should not have the choice of a Roth IRA.

Alan Greenspan says America's most important economic problem is its low savings rate. It is a problem that we must address. The rollover provision in this amendment is a small step toward resolving our number 1 economic problem.

Mr. President, I ask unanimous consent that a technical description of this amendment, and a revised revenue table for the IRS restructuring bill, prepared by the Joint Committee on Taxation, be printed in the RECORD.

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

DESCRIPTION OF ROTH FINANCING AMENDMENT TO THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998 AS REPORTED BY THE SENATE COMMITTEE ON FINANCE

A. FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS (SEC. 5002 OF THE BILL)

Under the bill, the provision is effective with respect to credits arising in taxable years ending after the date of enactment. Under the modification, the provision would be effective with respect to credits arising in taxable years beginning after December 31, 1998.

B. RESTRICT SPECIAL NET OPERATING LOSS CARRYBACK RULES FOR SPECIFIED LIABILITY LOSSES

Present law

Under present law, that portion of a net operating loss that qualifies as a "specified liability loss" may be carried back 10 years rather than being limited to the general two-year carryback period. A specified liability loss includes amounts allowable as a deduction with respect to product liability, and also certain liabilities that arise under Federal or State law or out of any tort of the taxpayer. In the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to the liability must occur at least 3 years before the beginning of the taxable year. In the case of a liability arising out of a tort, the liability must arise out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurred at least 3 years before the beginning of the taxable year. A specified liability loss cannot

exceed the amount of the net operating loss, and is only available to taxpayers that used an accrual method throughout the period that the acts (or failures to act) giving rise to the liability occurred.

Description of proposal

Under the proposal, specified liability losses would be defined and limited to include (in addition to product liability losses) only amounts allowable as a deduction that are attributable to a liability that arises under Federal or State law for reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore oil drilling platform, remediation of environmental contamination, or payments arising under a workers' compensation statute, if the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year. No inference regarding the interpretation of the specified liability loss carryback rules under current law would be intended by this proposal.

Effective date

The proposal would be effective for net operating losses arising in taxable years beginning after the date of enactment.

C. MODIFICATION OF MINIMUM DISTRIBUTION REQUIREMENTS TO DETERMINE AGI FOR ROTH IRA CONVERSIONS

Present law

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, individual retirement arrangements ("IRAs") other than Roth IRAs, and tax-sheltered annuities (sec 403(b)).

Under present law, distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means the April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year in which the employee attains age 70½. The Internal Revenue Service has issued extensive Regulations for purposes of calculating minimum distributions. In general, minimum distributions are includible in gross income in the year of distribution. An excise tax equal to 50 percent of the required distribution applies to the extent a required distribution is not made.

Under present law, all or any part of amounts held in a deductible or nondeductible IRA may be converted into a Roth IRA. Only taxpayers with adjusted gross income ("AGI") of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

Description of proposal

The proposal would modify the definition of AGI to exclude required minimum distributions from the taxpayer's AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA. As under present law, the required minimum distribution would not be eligible for conversion and would be includible in gross income.

Effective date

The proposal would be effective for taxable years beginning after December 31, 2004.

D. EXTENSION OF IRS USER FEES

Present law

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes in the form of ruling letters, determination letters, opinion letters, and other similar rulings or determinations. The IRS is directed by statute to establish a user fee program with respect to such rulings and determinations. Pursuant to this statutory authorization, the IRS establishes a schedule of user fees. The statutory authorization for the IRS user fee program is in effect for requests made before October 1, 2003 (P.L. 104–117).

Description of proposal

The proposal would extend the IRS user fee program for requests made before October 1, 2007.

Effective date

The proposal would be effective on the date of enactment.

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
Title I. Executive Branch Governance							*No Revenue Effect*						
Title II. Electronic Filing							*No Revenue Effect*						
Title III. Taxpayer Bill of Rights 3:													
A. Burden of Proof	eca DOE	(1)	−221	−232	−243	−256	−269	−282	−295	−311	−326	−953	−1,483
B. Proceedings by Taxpayers:													
1. Expansion of authority to award costs and certain fees at prevailing rate and CFR rule 68 provision with net worth limitation (includes outlay effects).	180da DOE	.....	−14	−15	−16	−17	−20	−21	−22	−23	−25	−62	−111
2. Civil damages with respect to unauthorized collection actions (includes outlay effects).	DOE	−2	−15	−25	−50	−30	−25	−25	−25	−25	−25	−122	−125
3. Increase in size of cases permitted on small case calendar to $50,000.	pca DOE						*No Revenue Effect*						
4. Expand Tax Court jurisdiction to include responsible person penalties.	pca DOE	−11	−15	−13	−7	−7	−7	−7	−8	−8	−8	−53	−38
5. Actions for refund with respect to certain estates which have elected the installment method of payment.	rfa DOE						*Negligible Revenue Effect*						
6. Provide Tax Court jurisdiction to review adverse IRS determination of a bond issuer's tax-exempt status.	pfa DOE	(1)	−5	−2	−2	−2	−2	−2	−2	−2	−2	−11	−10
C. Relief for Innocent Spouses and Persons with Disabilities:													
1. Innocent spouse relief—innocent spouses would be able to elect to be liable only for tax attributable to their income (assumes no interaction with any other proposal; includes anti-abuse rule; not innocent if have actual knowledge of understatement of tax).	iaa & ulb DOE	−58	−350	−288	−273	−346	−480	−608	−773	−910	−1,071	−1,315	−3,842
2. Reports on collection activity against spouses	bi 1999						*No Revenue Effect*						
3. Suspension of statute of limitations on filing refund claims during periods of disability.	(2)	−10	−70	−35	−15	−16	−17	−18	−19	−20	−21	−146	−95
4. Require the IRS to send separate notification to both spouses by certified mail.	−nma DOE						*No Revenue Effect*						
D. Provisions Relating to Interest and Penalties:													
1. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.	cqba DOE	−(1)	−9	−28	−42	−54	−57	−60	−63	−66	−69	−134	−315
2. Increase refund interest rate to Applicable Federal Rate ("AFR") + 3 for individual taxpayers (includes outlay effects) [3].	cqba DOE	−5	−51	−54	−56	−59	−62	−65	−69	−72	−76	−225	−344
3. Elimination of penalty on individual's failure to pay during installment agreements (for individuals and timely filed returns only).	iapma DOE	−29	−272	−287	−302	−317	−338	−354	−372	−390	−410	−1,207	−1,864
4. Mitigations of failure to deposit penalty cascading (all taxpayers)	dma 180da DOE	.....	−47	−64	−64	−65	−66	−66	−67	−68	−68	−240	−335
5. Suspend accrual of interest and penalties if IRS fails to contact taxpayer within 12 months after a timely-filed return (except for fraud and criminal penalties).	tyea DOE	.....	.....	−358	−428	−482	−514	−609	−615	−622	−628	−1,268	−2,988
6. Notices of interest and penalties must show computation	na 180da DOE						*No Revenue Effect*						
7. Require management to approve non-computer generated penalties (excluding failure to file, pay, or estimate tax payment).	pa 180da DOE						*Negligible Revenue Effect*						
E. Protections for Taxpayers Subject to Audit or Collection:													
1. Due process for IRS collection actions	caia 6ma DOE	.....	−45	−1	−1	−1	−1	−1	−1	−1	−1	−48	−5
2. Extend the attorney client privilege to accountants and other tax practitioners for tax advice of accountant and other tax practitioners.	DOE	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(5)	(5)
3. Expand the Taxpayer Advocate's authority to issue taxpayer assistance orders.	DOE	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(4)	(4)
4. Limitation on financial status audit techniques	DOE						*No Revenue Effect*						
5. IRS summons of computer source code	sia DOE & pfsib DOE	.....	−26	−32	−39	−45	−53	−61	−66	−72	−74	−142	−326
6. Prohibition on extension of statute of limitations for collection beyond 10 years with estate tax exception.	(6)	−6	−44	−38	−31	−25	−25	−25	−25	−25	−25	−144	−125

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT—Continued

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
7. Notice of deficiency to specify deadlines for filing Tax Court petition.	nma 12/31/98						*Negligible Revenue Effect*						
8. Refund or credit of overpayments before final determination	DOE						*Negligible Revenue Effect*						
9. Prohibition on improper threat of audit activity for tip reporting	DOE						*No Revenue Effect*						
10. Codify existing IRS procedures relating to appeal of examinations and collections and increase independence of appeals function.	DOE						*No Revenue Effect*						
11. Appeals videoconferencing alternative for rural areas	DOE						*No Revenue Effect*						
12. Require IRS to notify taxpayer before contacting third parties regarding IRS examination or collection activities with respect to the taxpayer (does not apply for criminal cases).	180da DOE	.....	(4)	(4)	(4	(4)	(4)	(4)	(4)	(4)	(4)	(5)	(5)
F. Disclosures to Taxpayers:													
1. Explanation of joint and several liability	180da DOE						*No Revenue Effect*						
2. Explanation of taxpayers' rights in interviews with IRS	180da DOE	.....	−13	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(5)	(4)
3. Disclosure of criteria for examination selection	180da DOE						*No Revenue Effect*						
4. Explanations of appeals and collection process	180da DOE						*No Revenue Effect*						
5. Require IRS to explain reason for denial for refund	180da DOE						*No Revenue Effect*						
6. Statement to taxpayers with installment agreements	180da DOE						*No Revenue Effect*						
G. Low-Income Taxpayer Clinics													
H. Other Taxpayer Rights Provisions:													
1. Cataloging complaints of IRS employee misconduct	DOE						*No Revenue Effect*						
2. Archive of records of IRS	DOE						*No Revenue Effect*						
3. Payment of taxes to the U.S. Treasury[3]	DOE						*No Revenue Effect*						
4. Clarification of authority of Secretary relating to the making of elections.	DOE						*No Revenue Effect*						
I. Studies:													
1. Study of penalty and interest administration and implementation	9ma DOE						*No Revenue Effect*						
2. Study of confidentiality of tax return information	1ya DOE						*No Revenue Effect*						
J. Limits on Seizure Authority:													
1. IRS to implement approval process for liens, levies, or seizures	caca DOE						*No Revenue Effect*						
2. Prohibit the IRS from selling taxpayer's property for less than the minimum bid.	Soa DOE						*No Revenue Effect*						
3. Require the IRS to provide an accounting and receipt to the taxpayer (including the amount credited to the taxpayer's account) for property seized and sold.	soa DOE						*Negligible Revenue Effect*						
4. Require the IRS to study and implement a uniform asset disposal mechanism for sales of seized property to prevent revenue officers from conducting sales.	DOE & 2 years						*No Revenue Effect*						
5. Increase the amount exempt from levy to $10,000 for personal property and $5,000 for books and tools of trade, indexed for inflation.	cata DOE	(1)	−5	−5	−5	−5	−6	−6	−6	−6	−6	−21	−30
6. Require the IRS to immediately release a levy upon agreement that the amount is not collectible.	lia DOE						*Negligible Revenue Effect*						
7. Codify IRS administrative procedures for seizure of taxpayer's property.	DOE						*No Revenue Effect*						
8. Suspend collection by levy during refund suit	tyba 12/31/98						*Negligible Revenue Effect*						
9. Require District Counsel review of jeopardy and termination assessments and jeopardy levies.	taa DOE						*Negligible Revenue Effect*						
10. Codify certain fair debt collection procedures	DOE						*No Revenue Effect*						
11. Ensure availability of installment agreements	DOE						*No Revenue Effect*						
12. Increase superpriority dollar limits	DOE						*Negligible Revenue Effect*						
13. Permit personal delivery of section 6672(b) notices	DOE						*No Revenue Effect*						
14. Allow taxpayers to quash all third-party summonses	ssa DOE						*Negligible Revenue Effect*						
15. Permit service of summonses by mail or in person	ssa DOE						*No Revenue Effect*						
16. Provide new remedy for third parties who claim that the IRS has filed an erroneous lien.	DOE						*Negligible Revenue Effect*						
17. Waive the 10% early withdrawal penalty when IRA or qualified plan is levied.	la DOE	−1	−3	−4	−4	−4	−4	−5	−5	−5	−5	−17	−24
18. Prohibit seizure of residences in small deficiency cases	DOE						*Negligible Revenue Effect*						
19. Require the IRS to exhaust all payment options before seizing a business or principal residence.	aa DOE						*No Revenue Effect*						
K. Offers-in-Compromise:													
1. Rights of taxpayers entering into offers-in-compromise	DOE	(1)	(4)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(5)	(4)
2. Prohibit IRS rejection of low-income taxpayer's offer-in-compromise based on amount of offer.	osa DOE						*No Revenue Effect*						
3. Prohibit IRS rejection of an offer-in-compromise solely based on a dispute as to liability because the taxpayer's file cannot be located by the IRS.	osa DOE						*No Revenue Effect*						
4. Prohibit the IRS from requiring a financial statement for offer-in-compromise based solely on doubt as to liability.	DOE						*No Revenue Effect*						
5. Suspend collection by levy while offer-in-compromise is pending	tao/a 60da DOE						*Negligible Revenue Effect*						
6. Rejected offers-in-compromise and requests for installment agreements to be reviewed.	oara DOE						*No Revenue Effect*						
7. Appeals review of rejected offers-in-compromise	osa DOE						*No Revenue Effect*						
L. Additional Items:													
1. Prohibit using tax enforcement results to evaluate IRS employees	DOE						*No Revenue Effect*						
2. IRS notices must contain name and telephone number of IRS employee to contact.	60da DOE						*No Revenue Effect*						
3. Require approval of use of pseudonyms by IRS employees	DOE						*No Revenue Effect*						
4. National Office conferences without field personnel	DOE						*No Revenue Effect*						
5. Require the IRS to end the use of the illegal tax protestor label	DOE						*No Revenue Effect*						
6. Modify section 6103 to allow the tax-writing committees to obtain data from IRS employees regarding employee and taxpayer abuse.	DOE						*No Revenue Effect*						
7. Publish telephone numbers for local IRS offices	1/1/99						*No Revenue Effect*						
8. Alternative to Social Security numbers for tax return preparers	DOE						*No Revenue Effect*						
9. Expand Alternative Dispute Resolution; binding arbitration pilot program.	DOE						*No Revenue Effect*						
10. Treasury cannot implement 98–11 regulations for 6 months, with no inference about transition rules.	DOE	−8	−36	−10	−6	−3	−3	−2	−1	−1	−1	−63	−8
11. Require IRS to notify all partners of any resignation of the tax matters partner that is required by the IRS, and of the identity of any successor tax matters partner who was appointed to fill the vacancy created by such resignation.	tyba 12/31/98	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	−1	−1	
Subtotal of Taxpayer Protections		−137	−1,251	−1,499	−1,592	−1,742	−1,957	−2,225	−2,442	−2,635	−2,849	−6,223	−12,110
Title IV. Congressional Accountability for the IRS							*No Revenue Effect*						
Title V. Revenue Offsets:													
A. Repeal Schmidt Baking with Respect to Vacation and Severance Pay	tyea DOE	603	1,141	1,160	141	148	156	163	172	180	189	3,193	860
B. Allow Taxpayers to use foreign Tax Credits to Reduce Income for 1 Year Back and Carryforward 7 years.	ftcai tyba 12/31/98	.....	84	546	487	454	424	394	271	267	263	1,571	1,619
C. Clarify and Expand Math Error Procedures	tyea DOE	.....	12	25	26	27	28	29	39	31	32	90	150
D. Freeze Grandfathered Status of Stapled or Paired-Share REITs	tyea 3/26/98	(8)	1	3	6	10	14	19	26	35	45	20	139

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT—Continued

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
E. Make Certain Trade Receivables Ineligible for Mark-to-Market Treatment With Spread.	tyea DOE	33	317	500	333	117	70	73	77	81	85	1,300	386
F. Add Vaccines Against Rotavirus Gastroenteritis to the List of Taxable Vaccines ($0.75 per dose).	vpa DOD	.....	1	2	3	4	5	6	6	6	7	10	30
G. Authorize the Federal Government to Offset a Federal Income Tax Refund to Satisfy a Past Due, Legally Owing State Income Tax Debt.	rda DOE	2	2	3	3	3	3	3	4	4	4	13	18
H. Restrict Special Net Operating Loss Carryback Rules for Specified Liability Losses.	NOLgi tyba DOE	.....	.....	15	32	42	43	41	40	41	42	89	207
I. Disregard Minimum Distributions in Determining AGI for IRA Conversions to a Roth IRA.	tyba 12/31/04	.....	.....	.....	.....	.....	.....	.....	2,362	2,854	2,812	.....	8,028
J. Extend Fee for IRS Letter Rulings	10/1/03	.....	.....	.....	.....	.....	.....	64	67	71	75	.....	277
Subtotal of Revenue Offsets		638	1,558	2,254	1,031	805	743	792	3,055	3,570	3,554	6,286	11,714
Title VI. Tax Technical Corrections		*No Revenue Effect*											
Title VII. Pay-Go Surplus[3]		.....	.....	.....	.....	.....	29	61	93	97	126	.....	406
Net total		501	307	755	−561	−937	−1,185	−1,372	706	1,032	831	63	10

[1] Loss of less than $1 million.
[2] Effective for periods of disability before, on or after the date of enactment but would not apply to any claim for refund or credit which (without regard to the proposed provision)
[3] Estimate provided by the Congressional Budget Office
[4] Loss of less than $5 million.
[5] Loss of less than $25 million.
[6] Effective for requests to extend the statute of limitations made after the date of enactment and to all extensions of the statute of limitations on collections that are open 180 days after the date of enactment.
[7] Loss of less than $500,000.
[8] Gain of less than $500,000.

Legend for "Effective" column: aa=actions after; bi=beginning in; caca=collection actions commenced after; caia=collection actions initiated after; cata=collection actions taken after; cqba=calendar quarters beginning after; dma=deposits made after; DOE=date of enactment; eca=examinations commencing after; ftcal=foreign tax credits arising in; iapma=installment agreement payments made after; la=levies after; laa=liability arising after; lia=levies imposed after; na=notices after; NOLgi=net operating losses generated in; nma=notices mailed after; oara=offers and requests after; osa=offers-in-compromise submitted after; pa=penalties after; pca=processings commencing after; pfa=petitions filed after; pfsib=protection for summonses issued before; tia=penalties imposed after; rda=refunds due after; rfa=refunds filed after; sia=summonses issued after; soa=seizures occurring after; Soa=sales occurring after; ssa=summonses served after; taa=taxes assessed after; tao/a=faxes assess on or after; tyba=taxable years beginning after; tyea=taxable years ending after; ulb=unpaid liability before; vpa=vaccines purchased after; 1ya=1 year after; 6ma=6 months after; 9ma=9 months after; 60da=60 days after; and 180da=180 days after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

AMENDMENT NO. 2340

Mr. ROTH. Mr. President, I would now like to turn to the amendment offered by the Senator from Nebraska, Mr. KERREY.

Senator KERREY is offering an alternative pay-for package. I must oppose Senator KERREY's package.

The Kerrey amendment contains revenue raisers similar to the Roth amendment. There are a few additional items that I had considered in crafting my pay-for amendment.

There, is, however, one very controversial revenue raiser in the Kerrey amendment. I think it is important that my colleagues focus their attention on it.

Rather than modifying the rollover rules for Roth IRAs, which would allow more taxpayers to enjoy the benefits of the Roth IRA, the Kerrey amendment would reinstate the expired Superfund taxes.

It is an undisputable fact that the present Superfund program needs immediate, substantial reform. I am a longstanding supporter of the Superfund program. It is critical that Superfund sites be cleaned up. It is a shame that the program has floundered over the past several years. Every Senator should feel the responsibility to get the Superfund program back up and running at full speed.

The Superfund trust fund received its revenues from excise taxes on domestic crude oil and imported petroleum products, certain chemicals and imported derivative products, and a corporate environmental tax.

These taxes expired a couple of years ago. If the taxes are extended, they will provide the necessary resources for Superfund cleanup activities.

It is important to maintain the "connection" between the Superfund taxes and the Superfund program. It is the view of our Senior Republican colleagues on the Environment and Public Works Committee that this connection is important for both the politics and policy of Superfund.

Our distinguished colleagues from the Committee on Environmental and Public Works, in particular, Senator SMITH and Senator CHAFEE, have worked long and hard on Superfund reform legislation.

They produced a bill, passed it out of committee, and have asked me to extend the expired Superfund taxes to cover the authorization period. Senators SMITH and CHAFEE should be commended for moving Superfund forward, not undercut here on the Senate floor.

I intend to support Senators SMITH and CHAFEE's efforts. As they have communicated to me, unless the Superfund taxes are enacted directly in connection with a Superfund reform bill, any hope for the long-needed changes in this environmental program would be dashed.

In deference to Senators SMITH and CHAFEE, the Finance Committee did *not* include an extension of the Superfund taxes in either the IRS Reform bill that passed our committee unanimously or in the Roth amendment. I agree with Senators SMITH and CHAFEE that the appropriate vehicle for extension of the Superfund taxes is their Superfund bill.

As chairman, let me be clear—I pledge to work with Senators SMITH and CHAFEE on Superfund with respect to the issues within Finance Committee jurisdiction.

It is my hope that will move forward with a viable Superfund reform proposal. The recent progress made by the Environment and Public Works Committee is encouraging.

If you are for Superfund reform, as I am, you need to support Senators SMITH and CHAFEE. For this reason, I respectfully urge my colleagues to oppose the Kerrey amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, first of all, the choice that the Senate will be making today really is, the first choice we have to make is do we want to put another $9 billion of spending in this bill. That is what the Finance Committee did. And as a consequence we are now trying to find a pay-for of some kind. I believe it is a perfectly good bill without that $9 billion worth of additional expenditure, but that is the threshold question. Do you want to spend an additional $9 billion? And if you do, the question is, how do you get the money? Where do you get the money to pay for it?

What we have done in our amendment is included two provisions that were included by the chairman of the Budget Committee. The Chairman of the Budget Committee, Senator DOMENICI, has advocated these two provisions as reasonable provisions, and we have included them as a pay-for. The alternative must be described here in a little more detail.

It is essentially an accounting gimmick that will be used by people over the age of 70½ that will basically enable them to pass to their heirs, tax free, assets that they currently own. That is what it is. Members need to know who will be affected by this.

I ask unanimous consent a letter from the Joint Committee on Taxation be printed in the RECORD.

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

JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Mark Patterson.
From: Lindy L. Paull.
Subject: Estimated revenue effects of proposal included in Roth financing amendment to modify rules relating to Roth IRA conversions.

Included in the proposed Roth Financing Amendment to the IRS Restructuring bill currently pending on the Senate floor is a proposal to modify the definition of adjusted gross income ("AGI") for purposes of determining the income limitation of conversions of IRA balances to Roth IRAs, effective for taxable years beginning after December 31, 2004. The following describes the analysis of the staff of the Joint Committee on Taxation in preparing estimated revenue effects of this proposal.

DESCRIPTION OF PROPOSAL

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, IRAs other than Roth IRAs, and tax-sheltered annuities (sec. 403(b)).

Distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year the employee attains age 70½. In general, minimum distributions are includible in gross income in the year of distribution.

Under present law, all or any part of amounts in a deductible or nondeductible IRA may be converted into a Roth IRA. Only taxpayers with AGI of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

If a taxpayer is required to take a minimum required distribution from an IRA, the amount of the required distribution is includible in gross income, and cannot be rolled over into a Roth IRA.

The proposal would modify the definition of AGI to exclude the required minimum distribution from the taxpayer's AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA. As under present law, the required minimum distribution would not be eligible for conversion and would be includible in gross income.

REVENUE ESTIMATION ASSUMPTIONS

The proposal targets a fairly narrow, well-defined taxpaying population who have attained or will attain age 70½ during the budget period. For purposes of the revenue estimate, it is assumed that the proposal would be utilized by a subset of this population. Two classes of taxpayers who become eligible for the conversion to a Roth IRA as a result of the proposal have been identified.

(1) *Taxpayers who are currently over age 70½, are taking a minimum required distribution, and who have AGI in excess of $100,000.* When the proposal becomes effective, some taxpayers whose AGI would fall below $100,000 if the minimum required distributions were disregarded would convert to a Roth IRA. In addition, some taxpayers whose AGI would not fall below $100,000 under the proposal but who have income that could be shifted easily from one tax year to another would convert to a Roth IRA. It is assumed for estimating purposes that some of these taxpayers would utilize this income shifting technique under present law to take advantage of the conversion to a Roth IRA; however, taxpayers whose minimum required distributions are substantial would be less able to utilize this technique under present law.

(2) *Taxpayers whose AGI exceeds $100,000 and who will attain age 70½ during the budget window.* These taxpayers are currently not eligible to convert to a Roth IRA; some of these taxpayers have income which could be shifted easily from one tax year to another and might be expected to do such income shifting in order to make a conversion to a Roth IRA under present law. Other taxpayers would not be able to shift income easily and would not be able to utilize the conversion to a Roth IRA under present law.

Approximately 500,000 taxpayers would be eligible for the conversion under the proposal during the budget years 2005 through 2007. Of those eligible, we estimate that approximately 170,000 taxpayers would convert to a Roth IRA.

Mr. KERREY. The Joint Committee on Taxation said, as we all know, it only affects Americans with retirement income over $100,000 a year. That is who is affected. So ask yourself how many people in your State have incomes over $100,000 a year, because that is who it is going to affect. The Joint Committee on Taxation is saying 170,000 of those individuals—that is what they are saying, 170,000 of those individuals—will convert to a Roth IRA. What does that mean? That means they are going to pay $50,000 each to convert. In order to get $8 million, you have to have an average of $50,000 of taxes paid by each of these 170,000 people to convert.

You ask yourself, why are they doing it? Love America? Love their country? Get teary-eyed when they watch the flag go by? No, sir. What they are doing is saying they would rather pay that extra $50,000 because they know their heirs will not pay any tax on this asset when it is transferred. That is what happens. It is a substantial reduction in tax revenue in the 10- to 15-year period at the very moment that this Senate and this Congress is going to be facing a tremendous problem of growing entitlements. They are going to force us into a situation where we will have to be reducing the cost of entitlement programs. While we are reducing the cost of entitlement programs, the heirs of very wealthy Americans are going to be receiving income on which they are paying no tax. That is what this is all about. This is not about Americans who are under the gun. Remember, of all of the nearly 40 million Social Security beneficiaries, almost 70 percent of them have 50 percent of their income being Social Security only; that is $745 a month.

This is about people over the age of 70½ with retirement incomes over $100,000 taking an IRA, converting it to a Roth IRA, paying, on an average, $47,000 per person for taxes so their heirs don't have to pay any taxes at the very moment that this Senate is going to be facing cutting back on benefits to the middle-income Americans. That is the choice that this proposal presents to us.

We are saying, first of all, on this side we would prefer that we not add to the cost of the bill. We have. Second, if we are saying we are going to add to the cost of the bill, let's find something that is more appropriate than providing a tax break to people right now who, frankly, not only are they not asking for a tax break, I think it is very difficult to justify that they need one. Our offset includes a provision that was recommended by the chairman of the Budget Committee.

In addition, our proposal, our amendment, includes some requests.

I ask unanimous consent a letter sent to the chairman of the Finance Committee from Commissioner Rossotti be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, March 31, 1998.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide the Senate Finance Committee information about provisions under consideration as part of the IRS restructuring bill which, in order to implement, will require changes in IRS computer information systems.

As is noted in one of the provisions of the restructuring bill, it is essential that the work needed to make the IRS computer systems comply with the Century Date Change be given priority. If these changes are not made and tested successfully, computer systems on which the IRS directly depends for accepting and processing tax returns and tax payments will cease to function after December 31, 1999. In order to accomplish this change, a massive effort is underway now and will continue through January 2000. This project, one of the largest information systems challenges in the country today, is estimated to cost approximately $850 million through FY 1999 and requires updating and testing of about 75,000 computer applications programs, 1400 minicomputers, over 100,000 desktop computers, over 80 mainframe computers and data communications networks comprising more than 50,000 individual product components. In addition, the data entry system that processes most of the tax returns must be replaced.

Most of the work to repair or replace these individual components must be done prior to

the tax season that begins in January 1999, and thus is at its peak during calendar 1998. During this peak period, the IRS must also make the changes necessary to implement the provisions of the Taxpayer Relief Act of 1997 which are effective in tax year 1998. These changes are still being defined in detail but are currently estimated to require about 800 discrete computer systems changes.

The most critical systems to which these changes must be made are systems that were originally developed in the 1960's, 1970's and 1980's, and many are written in old computer languages. A limited number of technical staff have sufficient familiarity with these programs to make changes to them. Furthermore, the IRS suffered attrition of 8% of this staff during FY 97, which attrition has continued at the same or higher rate until recently. In part, this attrition reflected the very tight market for technical professionals as well as a perceived lack of future opportunities at the IRS.

This extraordinary situation has required the IRS to commit every available technical and technical management resource to these critical priorities and to defer most other requests for systems changes at least during calendar year 1998.

For these reasons, it will not be feasible to make any significant additional changes to the IRS systems prior to the 1999 filing season, pushing the start of all additional work to about the second quarter of calendar 1999. Furthermore during 1999, a major amount of additional work will be required to perform the testing to ensure that all the repaired or replaced components work as expected prior to January 1, 2000. Given the magnitude of the changes, it is likely that additional work will be required to repair defects and problems that will be uncovered during the testing in the second half of 1999. Thus, while some capacity to make systems changes is projected to exist in 1999, there is considerable uncertainty about how much capacity will in fact be available even during calendar 1999.

With this context in mind, we have attempted to identify the provisions in the restructuring bill that require significant changes to computer systems and estimate how much staff time would be needed to implement these changes. Based on this very preliminary analysis, we have prepared a list of recommended effective dates if these provisions are adopted. In all cases, we would strive to implement the provisions sooner if possible. In addition, two provisions entail both significant systems and policy issues. For these items, which are discussed first, we suggest an alternative approach.

ALTERNATIVE APPROACH

1. Require that all IRS notices and correspondence contain a name and telephone number of an IRS employee who the taxpayer may call. Also, to the extent practicable and where it is advantageous to the taxpayer, the IRS should assign one employee to handle a matter with respect to a taxpayer until that matter is resolved.

Concern: We agree with the objectives of this proposal, but are concerned because it would entail a total redesign of customer service systems and would actually move the IRS away from the best practices found in the private sector. We do support the proposal that the IRS should assign one employee to handle a matter with respect to the taxpayer where it is both practicable and where it is advantageous to the taxpayer.

The proposal would affect the Masterfile, Integrated Data Retrieval System (IDRS), and any system supported by IDRS (including AIMS and ACS). In addition, the proposal is likely to decrease the customer service we are trying to improve through our expansion of access by telephone to 7 days a week, 24 hours a day. The assignment of a particular employee for a taxpayer contact could actually increase the level of taxpayer frustration as the named employee may be on another phone call, working a diffrent shift, or handling some other taxpayer matter when taxpayers call. In addition, consistent with private sector practices, we are currently installing a national call router designed to ensure that when a taxpayer calls with a question, the call can be routed to the next available customer service representative for the fastest response possible.

Proposal: Require that the IRS adopt best practices for customer service with regard to notices and correspondence, as exemplified by the private sector. Require that the IRS report to Congress on an annual basis on these private sector best practices, the comparable state of IRS activities, and the specific steps the IRS is taking to close any gap between its level and quality of service and that of the private sector. Furthermore, the IRS could be required to put employee names on individual correspondence; it could require all employees to provide taxpayers with their names and employee ID numbers; and, finally, it could record, in the computer system, the ID number of the employee who takes any action on a taxpayer account.

2. The proposal would suspend the accrual of penalties and interest after one year, if the IRS has not sent the taxpayer a notice of deficiency within the year following the date which is the later of the original date of the return or the date on which the individual taxpayer timely filed the return.

Concern: We agree with the objective of the proposal to encourage the IRS to proceed expeditiously in any contact with taxpayers, however, our systems are currently unable to accommodate some of the data requirements with the speed necessary to make this proposal workable. In addition, we are concerned that the proposal could have the perverse incentive of encouraging taxpayers to actually drag out their audit proceedings rather than work with the IRS to bring them to a speedy conclusion. Our administrative appeals process, which is designed to resolve cases without the taxpayer and the government incurring the cost and burden of a trial, could also become a vehicle for taxpayers to delay issuance of a deficiency notice.

Proposal: Require the IRS to set as a goal the issuance of a notice of deficiency within one year of a timely filed return. Mandate that the IRS provide a report to the Congress on an annual basis that specifies: progress the IRS has made toward meeting this goal, measures the IRS has implemented to meet this goal, additional measures it proposes toward the same end, and any impediments or problems that hinder the IRS' ability to meet the goal. In addition, the proposal could reemphasize the requirement that the IRS abate interest during periods when there is a lapse in contact with the taxpayer because the IRS employee handling the case is unable to proceed in a timely manner. The IRS could be required to provide information on the number of cases in which there is interest abatement each year in the report.

EFFECTIVE DATES

We propose the following effective dates for specific provisions. These dates are driven by the capacity of our information technology systems, not the impact of the policy. Some of these provisions would be fairly easy to implement, but in total—and in conjunction with all the other demands on our information technology resources—it is simply not feasible to implement them until the dates proposed. If the situation changes, we will strive to implement the provisions sooner.

The effective date for many of these changes is January 31, 2000. Given that all of these changes must be made compatible with the Century Date Change, we believe we will need the month of January 2000 to ensure all the Century Date Changes are successful before implementing the provisions listed below.

Allow the taxpayers to designate deposits for each payroll period rather than using the first-in-first-out (FIFO) method that results in cascading penalties. Effective immediately for taxpayers making the designation at time of deposit. Effective July 31, 2000 for taxpayers making the designation after deposit.

Overhaul the innocent spouse relief requirements and replace with proportionate liability, etc. Effective date: July 31, 2000. The IRS has no way of administering proportionate liability with our current systems. This provision would require significant complex changes to our systems and is likely to be cumbersome and error-prone for both taxpayers and the IRS.

Require each notice of penalty to include a computation of penalty. Effective date: Notices issued more than 180 days after date of enactment.

Develop procedures for alternative to written signature for electronic filing. The IRS is already preparing a pilot project for filing season 1999. Subsequent roll out of alternatives to written signatures for electronic filing will depend on the success of the pilot.

Develop procedures for a return-free tax system for appropriate individuals. This provision should be interpreted as a study of the requirements of a return-free tax system and the target segment of taxpayers. Actual implementation will be based on the findings and conclusions of the study.

Increase the interest rate on overpayments for non-corporate taxpayers from the federal short-term interest +2% to +3%. Effective date: July 31, 1999.

Do not impose the failure to pay penalty while the taxpayer is in an installment agreement. Effective date: January 31, 2000.

Require the IRS to provide notice of the taxpayer's rights (if the IRS requests an extension of the statute of limitations). Require Treasury IG to track. Effective date: January 31, 2000.

Require IRS to provide on each deficiency notice the date the IRS determines is the last day for the taxpayer to file a tax court opinion. A petition filed by the specified date would be deemed timely filed. Effective date: January 31, 2000.

Require the Treasury IG to certify that the IRS notifies taxpayers of amount collected from a former spouse. Effective date: January 31, 2000.

Require the IRS to provide notice to the taxpayer 30 days (90 days in the case of life insurance) before the IRS liens, levies, or seizes a taxpayer's property. Effective date: 30 days after date of enactment for seizures; January 31, 2000 for liens and levies.

Require the IRS to immediately release a levy upon agreement that the amount is "currently not collectible." Effective date: January 31, 2000.

Waive the 10% addition to tax for early withdrawal from an IRA or other qualified

plan if the IRS levies. Effective date: January 31, 2000.

The taxpayer would have 30 days to request a hearing with IRS Appeals. No collection activity (other than jeopardy situations) would be allowed until after the hearing. The taxpayer could raise any issue as to why collection should not be continued. Effective date: January 31, 2000.

IRS to implement approval process for liens, levies, and seizures. Effective date: implement procedures manually 60 days after date of enactment; implement system for IG tracking and reporting January 31, 2000.

The following items were proposed in the Administration's FY 1999 Budget. In conjunction with the other proposals in this bill, they will also require significant systems changes:

Eliminate the interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.

Prohibit the IRS from collecting a tax liability by levy if: (1) an offer-in-compromise is being processed; (2) within 30 days following rejection of an offer; and (3) during appeal of a rejection of an offer.

Suspend collection of a levy during refund suit.

Allow equitable tolling of the statute of limitations on filing a refund claim for the period of time a taxpayer is unable to manage his affairs due to a physical or mental disability that is expected to result in death or last more than 12 months. Tolling would not apply if someone was authorized to act on these taxpayers' behalf on financial affairs.

Ensure availability of installment agreements if the liability is $10,000 or less.

Finally, we would attempt to immediately implement the cataloging of taxpayer complaints of employee misconduct and would stop any further designation of "illegal tax protesters." However, there may be some systems issues with regard to these proposals that could delay certain changes until some time in early 1999.

I look forward to working with you, the Finance Committee, and the Congress as we strive to restructure the Internal Revenue Service.

Sincerely,

CHARLES O. ROSSOTTI.

Mr. KERREY. Our amendment includes something that I urge my colleagues to consider. My hope is Senator MOYNIHAN will offer this as a free-standing amendment later. Mr. Rossotti, quite appropriately, says we have about 600 days before the 31st of December 1999. No one is more eloquent than the Senator from Utah, Senator BENNETT, talking about the problems that the year 2000 is going to create as a consequence of having to rewrite all of our computer codes. The computers will think it is the year 1900 and everything is going to end up getting shut down, a huge problem for the IRS. Mr. Rossotti is very much worried. Right now the IRS is a bit behind. He sent us a letter asking us to delay some of these provisions.

We have not been able to get these scored yet from Joint Tax. I regret that. It takes a little longer out of Joint Tax than we would like. We will get that scored before we are through with this debate and we will be able to reduce some of the offsets in other areas. But I am urging Members have an opportunity to put themselves on the side of honoring the request of Mr. Rossotti, who is saying we are not going to be able to meet that year 2000 problem if a whole series of additional things are imposed upon us that we have to do.

Understand, we pass the law but the IRS has to implement it. We change the law, whether it is a Tax Code or some other area of the tax law, and the IRS is the one that has to organize human beings to get the job done.

We have an offset in here that has been endorsed by the chairman of the Budget Committee. We have an offset that does not have us saying to people with retirement incomes over $100,000 a year here is a way for you to shelter that income for your heirs. And we have a provision in here that enables Senators to say we have taken a step to make certain that at least the IRS is not, in the year 2000, going to cause all kinds of additional hardships to the American taxpayers as a consequence of not having their computer system and their software Y2K compliant.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I thank the distinguished chairman of the Finance Committee, Senator ROTH, No. 1, for recognizing me, but more importantly for supporting the provision that we should not use these environmental income taxes, and oil and chemical excise taxes, for anything but Superfund. I know it was a difficult decision. I support the Senator fully on the IRS reform which he has done such a tremendous job on, and on which he has exerted such great leadership. I commend him for understanding, also, there is another issue here with Superfund.

This, essentially, with the greatest respect to my colleague from Nebraska, will just totally destroy the Superfund reform that we have worked on for some 3½ years. In order to make the things happen that we need to make happen in the Superfund Program, these taxes would have to be reinstituted and used strictly and exclusively for the Superfund Program. So I vehemently oppose the Kerrey amendment.

I am certain the majority of this body, and I think the majority of the American people agree that IRS and Superfund have a similarity. They are both badly broken. They both need to be fixed. But they don't have to go against each other to do that. These are two separate and distinct issues.

I support the IRS reform the distinguished chairman is pursuing and I also support reforming the Superfund Program. It is inappropriate to utilize Superfund taxes to pay for the cost of IRS. Superfund taxes should be used to fix Superfund.

For those who have been anxiously waiting for the reform of the program, help is on the way, I hope, if the Senate will be supportive. Working with the distinguished chairman of the Environment and Public Works Committee who is on the floor, Senator CHAFEE, and through his leadership we were able to pass a bill out of committee. I am hopeful the majority of our colleagues will allow that bill to be brought to the floor and fully debated. Within the next few days the committee's report will be complete. There are differences on the bill. But I think clearly no one should be of the opinion that we should use Superfund taxes; that is, the environmental income tax and the oil and chemical excise tax, for anything other than to reform that program.

I don't want to get into a full debate now on the problems associated with Superfund. I will have that opportunity when we get the bill to the floor. But I just want to say, when Congress established this program in 1980, the consensus was it would take a few billion dollars to clean up what we thought were around 400 sites. In order to fund this program, revenues were collected through these taxes. We reauthorized the program in 1986, extending the taxing authority. What has happened is we spent $20 billion of taxpayers' money and we have only cleaned up about 160 sites; that is 160 sites were removed from the NPL.

These folks who pay the environmental income taxes, who pay the oil and chemical excise taxes, rightfully say this program isn't working. We are paying all this tax money and it is going to lawyers and it is being wasted and we are not cleaning up sites. Our Superfund bill clearly expedites cleanup, gets the money away from lawyers and towards cleanup. To take that money away from this program and provide it for some other use is simply unconscionable. Although maybe well intended, it is a serious mistake in terms of the bipartisan consensus that we have to fix a broken program.

So I am hopeful—I wish the Senator would reconsider his amendment and I hope this will be defeated.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. First of all, as to "unconscionable," we are just following the lead of the chairman of the Budget Committee who apparently is unconscionable as well. He had the same proposal in his budget.

Second, let me say this is not to fund the operation of the IRS. This basically funds a tax cut. That is what we are talking about. We have new innocent spouse provisions in this bill and a burden of proof shift that will result in a

reduction of taxes of some American taxpayers. That is what this pay-for is set up to do.

Let me say these taxes are not imposed until the year 2002. This gives the Environment and Public Works Committee nearly 3 additional years. They had 3½ years now already since this bill expired. My presumption is 3 years is plenty. I can find an additional offset, perhaps, and push it back to 2003 if you want an additional year to get this bill authorized.

This takes care of a second 5-year problem. Again, I say to colleagues, we are having to deal with this because the Finance Committee decided to spend $9 billion more, and that $9 billion is being spent to reduce some people's taxes who are going to pay higher taxes as a result of the innocent spouse provision and the burden-of-proof issue.

We are reducing taxes in one area and we have to find an offset. It seems to me, Mr. President, that Senator DOMENICI's recommendation is correct. By delaying this until 2002, we take away the argument the distinguished Senator from New Hampshire had about destroying the Superfund Program. This gives the Environment and Public Works Committee 3½ years to finish their job.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 10 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished chairman of our Finance Committee for yielding me some time on this matter.

I rise to oppose the amendment offered by the Senator from Nebraska. This amendment offers the Senate an alternative to the Finance Committee's plan to pay for the tax relief provided in the IRS reform bill, but the reality is that the Kerrey amendment would prevent meaningful Superfund reform. The amendment, I believe strongly, should be rejected.

I oppose this amendment, obviously, but let me tell you what I do support. I support reimposition of the Superfund taxes. I also support reasonable Superfund reform. We will need to reimpose the three Superfund taxes—namely, the corporate environmental income tax, the excise taxes on crude oil and the excise tax on chemical feedstock—to provide the revenue to pay for a fairer Superfund Program.

Why do I keep talking about Superfund? Mr. President, the Committee on Environment and Public Works reported a Superfund bill to the floor 6 weeks ago. Just yesterday, the committee received CBO's estimate on the bill. As we expected, we will need to reimpose the Superfund taxes in order to pay for the Superfund reforms and the Superfund reauthorization. In other words, if we gobble up this money now in connection with the IRS reforms, the money won't be there for the Superfund bill which we are moving along now and which has used in the past these very funds; in other words, these are Superfund taxes.

The Kerrey amendment, if adopted, would prevent meaningful reform of the Superfund Program. I could discuss at length the numerous problems that plague Superfund. There is no question it has a lot of difficulties. I am prepared to explain the solutions we propose in our comprehensive Superfund bill that is on the floor now, but it is not necessary to do that today.

While the Environment and Public Works Committee reported our Superfund bill on an 11-to-7 vote—there are 18 members of our committee, 10 Republicans and 8 Democrats—the bill was reported out in really a nearly partisan vote by 11 to 7 with only one Democratic Senator in support. However, there is bipartisan consensus that the Superfund has to be reformed.

There wasn't, obviously, agreement with the way the Republicans on the committee wanted to proceed, but, nonetheless, there is agreement that the Superfund legislation needs to be reformed. Indeed, I see the ranking member of the committee now, and he devoted many hours of his time to this effort for reform.

He also knows it will be necessary to offset the spending in any Superfund reform by reimposing these Superfund taxes. This was the case when Senator BAUCUS chaired the committee and reported a Superfund bill in 1994, and it still remains the case today. If we are going to have Superfund reform, we are going to need these moneys that now are apparently being seized or attempting to be seized by Senator KERREY to use for this other purpose; namely, the IRS changes.

The Kerrey amendment would preclude any meaningful reform of the Superfund Program. In other words, how are we going to pay for the thing? We wouldn't be able to if this Kerrey amendment is adopted.

The real issue before us is whether the Senate wants to abandon Superfund reform. If we do, then go ahead and vote for the Kerrey amendment. If you don't, if you want Superfund to take place and do something about the brownfields redevelopment, for example, we have to have these moneys. There aren't other revenues around that we can use. The Kerrey amendment would preempt reform. The amendment would frustrate any Superfund reform efforts. I believe it is bad public policy to take these taxes and use them to pay for tax relief in the absence of Superfund reform.

Mr. President, I strongly hope this amendment will be rejected and that we can all agree we are saving these Superfund taxes. They will have to be reimposed at some time when we get a reauthorization of the Superfund legislation, but let's save them for that purpose, the purpose they have been used for in the past and the purpose I believe they should be used for in the future.

I thank the Chair, and I urge my colleagues to support the Roth amendment and to reject the Kerrey amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). Who yields time?

Mr. KERREY. I yield such time as necessary to the Senator from Montana.

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

Mr. BAUCUS. Mr. President, I thank my friend from Nebraska.

I strongly support the Kerrey amendment for several reasons. First, the funding mechanism provided for in the manager's amendment to the underlying bill, while creative and it meets the technical requirements of the budget rules, it is also very misleading. The rollover provisions in the managers' amendment do raise $8 billion in the first 5 years that the provision will be in effect, but that same provision loses $7 billion in the second 5 years—a clear revenue loss.

Here we are in the underlying amendment saying, "OK, early on, we'll raise the revenue," but we don't tell the rest of the world, particularly the Congress and Senators who are voting on this, that we are going to lose $7 billion in the next 5 years.

Part of our efforts in the Congress, I hope, have been truth in budgeting not just in the first 5 years, but also beyond, in the next 5 years. Too often, this Congress has, unfortunately, hoodwinked people—the President has been part of it, both administrations, in the last 10 to 15 years—by saying, "OK, we will meet the budget requirements in the first 5 years, but we won't tell everybody what we are doing in the next 5 years," and often in the next 5 years, if not disastrous, it is inimical to the American people because it tends to increase deficits rather than decrease. That is a fact. To the credit of this administration, it has tried to be truthful not only in the first 5 years, but also the next 5 years, and so has the Congress.

Here we are with an underlying amendment which goes totally against that effort on the part of good, solid statesmanlike Senators to be truthful not only in the first 5 years, but the next 5 years.

This amendment increases the deficit because it costs $7 billion more in the next 5 years. That is not right. We shouldn't be doing that. That is what this amendment does. This is a gimmick. It is purely and simply a gimmick, and that is why it is a bad idea.

The Kerrey amendment, on the other hand, raises revenue in several ways. One is by postponing some of the effective dates of the provisions. Why is that important? Not only because it raises revenue, that is only of minor importance, but the major reason is because we all know, Mr. President, this country faces a massive problem in the next year or two with the fancy term Y2K. It is computer conversion to the next millennium.

We know that most computers in our country, whether it is in the IRS, whether it is in the companies, have a system where they have two digits for the date, two digits for the month, and two digits for the year. What is today? Today is May 6, 1998. So it would be 05-06-98.

That is how the computers record today's date. All computers do that. So we get to December 1999—12-30-99, 12-31-99, and next is 01-01-00. Now, we like to think that is January 1, 2000, but most computers today will record that as January 1, 1900, because two zeros are treated as 1900, not 2000. Massive problems.

It is going to cost the IRS, to convert these computers just to meet this conversion problem, $1 billion—$1 billion just to convert. That is to say nothing of all the other costs to comply with new changes in the law.

So the Kerrey amendment is very, very logical. It is safe. Maybe a little on the conservative side. It says, let us delay the effective dates of some of these new provisions. Why? Because we do not want to further complicate the conversion problem.

This IRS restructuring bill is going to further complicate the conversion problem—further complicate it—not lessen, but further complicate it. So Senator KERREY says, well, let us not do the gimmick, let us delay the effective date a little bit, and let us also delay the effective date to take care of the Y2K problem, the conversion problem.

The underlying amendment, the manager's amendment—I have the highest regard for my friend from Delaware, the chairman of the committee—does not delay, therefore, further causes a problem for the IRS to convert and is much more expensive. It also comes up with a way to get revenue, which is a gimmick.

Some on the floor have said that extending the Superfund tax will prevent the enactment of Superfund. That is not true, just basically is not true. What is the advantage of using the extension of the Superfund tax? I will give you several.

One, it is not a gimmick. It is straight. It is right there. People know what it is. It is not a gimmick. Second, it is a tax that everybody knows about, is comfortable with. Sure, it expired a couple years ago, but everybody knows who pays the tax, what the tax is; and it would be extended I think to the year 2000, which means that the revenue is there.

Let us say Congress does enact Superfund. And I sure hope it does. I say, Mr. President, we have been working on Superfund for a long time. Let us say we enact Superfund. I hope we do. That does not mean it cannot be enacted because previously we extended the Superfund tax. Not at all. The Superfund tax we talk about here is not offset against the Superfund. It is not offset against—it is there. It is revenue and held in a pot to pay for the bill.

We can still enact Superfund. And, frankly, the underlying tax bill still pays part of Superfund. The Superfund bill will still go to the Finance Committee. The Finance Committee is pretty creative in figuring out ways to find the additional revenue, which will not be very much, basically to pay for the orphan share, the effect of the later date. There is no rocket science in the choice of the standards we have before us.

On the one hand it is the underlying amendment, which is a gimmick, which is deceiving the taxpayers, which will require this body to come up with $7 billion more revenue than otherwise is the case because we are widening the budget deficit, not decreasing it in the second 5 years.

Also, on that amendment—let me say it again. First is the underlying amendment. It further complicates the conversion problem. It is a gimmick. That is one choice. The other choice is to enact a revenue measure which is not a gimmick and which will not further complicate the conversion problem. That is the case.

Mr. President, I think the choice is pretty simple. I think it is pretty straightforward. I think, accordingly, we should put politics aside. I know the majority party is going to vote for the amendment because that is what they are told to do. That is the drill. You vote for that one. But if you step back and think a little bit about what is really going on here, I hope both parties can find a way to come together, find a way not to further complicate the conversion problem and to pass a revenue-raising measure that is not a gimmick.

Believe me, Mr. President, the Kerrey amendment is certainly the beginnings of that. Maybe with further modifications we can come together to finally get this thing passed.

Mr. KERREY addressed the Chair.

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

Mr. KERREY. I thank you, Mr. President.

First, I want to make it clear again what we are doing here. We are trying to come up with an offset for $9 billion worth of additional cost that the Senate bill has that the House bill does not. It is $9 billion worth of additional loss of revenue, $9 billion of loss of revenue that occurs as a consequence of changes that we are making in the tax law. Somebody will pay less taxes. That is essentially what this amounts to.

Mr. President, we tried to ascertain who was going to benefit from these changes. I think it is very important as we look at our tax law that we ask ourselves—since the vast majority of our taxes come from middle-income Americans and there is a significant concern on their part as to whether or not they are paying their fair share, we tried to get some distributional analysis on this thing to find out who is going to benefit from the innocent spouse provisions, the burden of proof shifts, and the Tax Court. Not many Americans go to Tax Court. There is a provision in here as well that has to do with interest being accumulated.

Unfortunately, Joint Tax was not able to give us a distributional analysis. So we are flying a little bit blind and not able to describe who is going to benefit from these provisions. The underlying issue for us, though, is we now have to find $9 billion.

We have a proposal. Chairman ROTH has a proposal. I alert colleagues, by the way, what I think will likely happen. My guess is the majority will all vote for the Roth amendment and that will pass. And if it does pass, I will not insist on a rollcall vote on the alternative amendment. There are other alternatives that we can come up with.

The baseline question is going to be for us, after the Roth amendment is accepted: How comfortable do you feel with the provisions in it? So, you will have rejected the alternative amendment, fine. Let us reject the alternative amendment. But remember this: This law now is going to contain a provision in there that is going to do something for certain taxpayers. Approximately 170,000 taxpayers will be affected by this provision in the law.

How will they be affected? That is the question we have to ask ourselves. The answer is, they are going to be entitled to pay more taxes early on, approximately—the estimate is $47,000 per taxpayer. They will pay about $8 billion total. And then they will not pay any taxes in the outyears. When they convert, they will not pay any taxes. We are trying to ascertain what the outyear costs are going to be for this program, Mr. President.

I ask unanimous consent that a response from Joint Tax to this question be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Mark Patterson.
From: Lindy L. Paull.
Subject: Revenue Request.

This is in response to your telephone request of May 5, 1998, for a revenue estimate of a proposal which would expand the eligibility for conversions to Roth individual retirement arrangements ("IRAs")

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, IRAs other than Roth IRAs, and tax-sheltered annuities (sec 403(b)).

Distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year the employee attains age 70½. the Internal Revenue Service has issued extensive regulations for purposes of calculating minimum distributions. In general, minimum distributions are includible in gross income in the year of distribution.

Under present law, all or any part of amounts in a deductible or nondeductible IRA may be coverted into a Roth IRA. Only taxpayers with adjusted gross income ("AGI") of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

If a taxpayer is required to take a minimum required distribution from an IRA for a year, the amount of the required distribution is includible in gross income, and cannot be rolled over into a Roth IRA.

The proposal would modify the definition of AGI to exclude the required minimum distribution from the taxpayer's AGI for the year of the conversion for purposes of determining eligibility to convert from an IRA to a Roth IRA. The required minimum distribution would not be eligible for conversion.

The proposal would be effective for years beginning after December 31, 1997. We estimate that the proposal would change Federal fiscal year budget receipts as follows:

Fiscal Years:

	Billions
1998	(*)
1999	$2.6
2000	3.1
2001	3.1
2002	−0.9
2003	−1.0
2004	−1.2
2005	−1.4
2006	−1.5
2007	−1.7
1998–2002	7.8
1998–2007	1.1

(*) Gain of less than $50 million.

Note: Details do not add to totals due to rounding.

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Nick Giordano and Maury Passman.
From: Lindy L. Paull.
Subject: Request for Distributional Effects.

This is in response to your request dated April 23, 1998, for the distributional effects of provisions contained in H.R. 2676, the "Internal Revenue Service Restructuring and Reform Act of 1998" relating to: (1) the burden of proof; (2) innocent spouse relief; and (3) the suspension of accrual of interest and penalties if the Internal Revenue Service ("IRS") fails to contact the taxpayer within 12 months after a timely filed return.

We can not provide analyses of the distributional effects of these types of proposals. In general, the information used to prepare estimates for these types of proposals does not come from statistical samples of taxpayer return information, but from various operational data bases within the IRS collectively referred to as administrative data. Administrative data does not contain the type of taxpayer income information necessary to prepare a distributional analysis. Moreover, often the data are in an aggregate form so that individual taxpayers can not be identified. As a result, there would be an enormous amount of uncertainty involved in characterizing the income distribution of taxpayers contained in this type of data. Should you wish to discuss this request any further, please feel free to contact me.

Mr. KERREY. Mr. President, what happens is that in the first 5 years that this provision is in effect, Joint Tax is estimating there will be $2.6 billion of additional revenue coming in year 1; $3.1 billion in year 2; $3.1 billion in year 3. Americans with incomes over $100,000, who are 70.5 years of age or older, $100,000 of retirement income or more, they will be converting existing accounts into Roth IRA accounts, and paying, on average, $47,000 for the privilege of doing that. In the year 2002, we will lose $1 billion; in 2003, we will lose $1 billion; in 2004, it goes to $1.2 billion we lose; in 2005, we lose $1.4 billion; in 2006, we lose $1.5 billion; and in 2007, we lose $1.7 billion. The trend line is up.

I remind my colleagues, in the year 2010, we will see the beginnings of the retirement of 77 million Americans called baby boomers. If you look at the cost, the outyear cost of our mandatory programs, you can see clearly what is going to happen.

In order to fund a tax cut for Americans who have $100,000 a year of retirement income and up, because their heirs or whoever is converting and not going to pay any taxes on this income, in order to fund a growing tax cut for these individuals, we are going to be cutting programs for middle-income Americans. It is an inescapable thing that we will be facing.

So, again, I want my colleagues to understand, issue No. 1 is, do you want to spend another $9 billion to reduce the taxes of Americans who have been affected by innocent spouses who go to Tax Court or who have other problems that are identified in this bill? If the answer is yes, then you have to find an offset. And what we have is the chairman's proposal to reduce the taxes of upper-income Americans, or more likely their heirs, at some point out in the future, and that point is the very point when our mandatory programs are going to be squeezing all of our discretionary programs even worse than they are today.

My expectation is the majority will come down and vote for the amendment that the Senator from Delaware has offered, the chairman of the Finance Committee. As I said, I will not insist on a rollcall vote on ours.

Colleagues, I hope both Republican and Democrats will look at this pay-for. It will not be too late for us to change it. We can still change it on this floor. We can change it in conference. I don't think when you examine the details of this pay-for that you will be very comfortable going home to Nebraska or other States, first of all, finding somebody who has over $100,000 worth of retirement income and saying, "Congratulations, your heirs won't pay any taxes on whatever asset you convert to a Roth IRA."

Mr. DORGAN. Will the Senator yield?

Mr. KERREY. I am happy to yield to the Senator.

Mr. DORGAN. I venture to say most Members of the Senate are not very familiar with this issue because the bill was brought to the floor and a mechanism to pay-for-it is brought to the floor this morning; I guess it was disclosed yesterday.

As I looked at it, it seems to me it is exactly as the Senator from Nebraska described. But even more than that, it is a device by which you bring some money here and say this is really paid for but, in fact, the cost in the outyears is very substantial.

It is just a timing issue, kind of a clever timing issue, but in my judgment not a very thoughtful way to do this bill.

Mr. KERREY. The Senator from North Dakota is exactly right.

I hope colleagues will look at this letter from the Joint Tax Committee. This is the tip of the iceberg. The tax only scores 10 years out. They are saying, yes, Americans with over $100,000 in retirement income converting to a Roth IRA pay $47,000 in taxes each, and that will add to $2.6 billion by year 1, 2, 3, but after that it starts to cost more and more money as the individuals convert and don't pay any tax on their income. That is basically what will happen—and it grows.

I say to the Senator from North Dakota, not only are you exactly right, but in the fourth year it costs $900 million and in the 10th year it is $1.7 billion. It is going up. This is less taxes that upper-income Americans will pay on these retirement accounts. As I said, it is apt to be the heirs.

Who will pick up the slack? We know who will pick up the slack. If this amendment is accepted, which I suspect it will, I hope colleagues will look at the details of it. If you want to spend another $9 million in the second 5 years to pay for all the things that we

added in the Senate Finance Committee, most of which are good and reasonable, if you want to add those provisions, the question is how will you pay for it. My hope is that we will find an alternative to this.

Mr. DORGAN. If the Senator will yield, I think I understood the Senator to say you were not able to get any burden tables or distribution tables to determine who gets the benefit of this proposal. That is troublesome because when ideas are brought to the floor as late as this, you are unable to get information about who this is going to benefit and how.

Mr. KERREY. The Senator is right.

Title 3 of the bill is called the taxpayer rights provision. I worked very hard on those provisions. We extended lots of new taxpayer rights. In the bill that Senator GRASSLEY and I introduced in the Finance Committee—and I voted for it—we added some additional rights.

The problem is we don't know who will benefit from those tax reductions. We know three principal provisions cost us money. One is the shifting of burden of proof in Tax Court. For citizens, they need to ask themselves, do they go to Tax Court? If they don't go to Tax Court and don't have the experience on a regular basis in Tax Court, they will not bill.

The second provision is called innocent spouse relief. They have to ask, will that affect me? Seventy percent of Nebraskans do not itemize their deductions. They will not be impacted by the second one.

The third one, the suspension of the accrual of interest and penalties if the IRS fails to contact the taxpayer within 12 months after a timely filed return. Again, ask yourself who will be affected by this? We were unable, I regret, to get from the Joint Tax Committee an answer to that. We don't know who will benefit from those three additional provisions, but that is what is costing us the money. That is why we have to find some kind of an offset.

As I said, I understand the die is likely to be cast and we will probably have 55 votes for the Roth amendment and 45 votes against. I will not ask for a rollcall vote on our alternative, but I appeal both to Republicans and Democrats on the floor to examine what it is we are about to do and ask ourselves, do we want to open up a hole in revenue in the outyears as a consequence of these conversions that will benefit a relatively small number of Americans who have retirement income in excess of $100,000 a year.

Mr. President, I yield the floor.

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

AMENDMENT NO. 2339

Mr. ROTH. Mr. President, as I mentioned earlier, Alan Greenspan says that America's most important economic problem is its low savings rate. With that, I agree. As a practical matter, I have done my very best the last several years to try to build the kind of incentives into the tax picture that would promote savings on the part of the American people. The rollover provision in this amendment is a small step toward resolving our No. 1 economic problem.

Just let me point out what we are saying. What we are proposing is letting older people keep the money that they have saved. We are not asking them to do anything that others are not able to do. As a practical matter, the way the system now works, it discriminates against the older people. The problem is that if you are under the age of 70½, there is no requirement that you make withdrawals from your IRA. It is only when you reach 70½ that you are required to do so under the deductible IRA. So there is a built-in discrimination against the senior citizens. I think that is wrong.

Again, let me emphasize what we are talking about. What we are proposing is to treat these older Americans, those that are over 70½, to have the same kind of treatment as those that are younger than 70½. As I said, if you are under 70½ there is no requirement of withdrawals, and of course the basic problem is that if you have income in excess of $100,000 you are not entitled to this benefit.

Let me correct one further point that has been made. My distinguished friend and colleague, Senator KERREY, has said that the purpose of the IRA rollover provision is to allow heirs to escape payment of estate taxes. That is just not the case. If the IRA is part of the estate, then the individual who passes on is subject to the estate tax. If he or she tries to give it during the lifetime to someone else, and it is a permanent irrevocable gift, then it is subject to the gift tax. So there is no escaping of estate taxes by this provision.

Let me just say, as we all know, the Roth IRA has become a very popular savings vehicle. A taxpayer, as I said, who has a regular IRA may convert their regular IRA into a Roth IRA as long as the taxpayer and the taxpayer's spouse have adjusted income of $100,000 or less. Again, let me repeat, older Americans are now required to receive minimum distribution from their regular IRA on an annual basis beginning in the year following the year they attain the age of 70½. Those required distributions must be counted, under current law, as part of the older taxpayer-adjusted gross income, which in some instances will cause these older Americans to become ineligible to roll over their IRAs.

My amendment gives these older taxpayers the opportunity to roll over their IRAs into Roth IRAs by not counting these required minimum distributions toward $100,000 adjusted growth income.

It is only fair, in my judgment, that these older taxpayers are given the same ability to roll over their IRAs and not be penalized because they must take distribution from their regular IRA solely because of their age.

Let's be clear here, the revenue cost by this provision comes from taxpayers who will pay tax on their regular IRA when they convert to the Roth IRA. These conversions are entirely voluntary on the part of the taxpayers.

Mr. President, I ask the Members of this distinguished body to support the Roth amendment because I think it brings equity into the picture and only treats the senior citizens the same as the younger.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, as I said, the die is cast on this thing. This amendment is going to be accepted. The question is, Will we have any reexamination moment? We will reexamine what we are about to do?

Again, this affects people with incomes over $100,000 in retirement income. To get $100,000 in retirement income, I am probably going to have to have a million or more dollars in liquid assets that are earning this income. I would probably have tax-exempt bonds that I own as well. This is a very select group of people. We are not penalizing them; we are treating them like everybody else. I am capable of feeling sympathy for low- and moderate-income seniors who are struggling to pay for health care bills, and about making certain that Americans have the opportunity to save. But we are not helping Americans who are struggling to save with this. These are Americans who have accumulated a substantial amount of wealth.

If we want to help struggling Americans, we ought to cut the payroll tax, as Senator MOYNIHAN is proposing, giving Americans an $800 billion cut in taxes; that would go immediately into savings. That is exciting to me. And 98.5 percent of Americans die with estates under $600,000. We are talking about 1.5 percent of the American people who have estates over $600,000. You have to have an estate over a million dollars in order to generate $100,000 worth of income.

Please don't tell me that tax lawyers and tax advisers can't figure out a way to transfer this to your heirs. If that assertion is made by a colleague, let's bring a tax adviser in before one of our committees and ask them. It darn sure can, and they darn sure will.

This provides a benefit for a very small amount of Americans, and, frankly, it is very difficult to make the case that they need a benefit. They are not treating them in a fashion that is equal; they are treating them unequally with other Americans who are

in the workforce and might be looking to retirement accounts as well.

Mr. President, this pay-for ought to be rejected by this body; it is going to be accepted nonetheless. I hope we have some "morning after" doubts about this, after examining whom it is going to benefit and the dilemma it will pose to us down the road. I don't know how many in this body expect to be here 6, 7, 8 years from now, but if you are here, one of the questions you are going to have to answer is: Why did you give away $2 billion a year back in 1998 to less than 1 percent of the American public, who are not struggling, who are not foraging in the alley for food, and they are not trying to figure out how to make ends meet? They will use this change in the law to transfer an asset to heirs, and their heirs won't pay any taxes as a consequence.

Mr. President, as I say, I know when it is time, if not to accept defeat, to acknowledge it. I expect 55 Republican votes for this amendment. I do not intend to ask for a rollcall vote on the substitute, but I hope my colleagues, as they begin to examine what this amendment does, will ask that we come back and revisit the pay-for for the second 5 years.

I yield back whatever time I have.

AMENDMENT NO. 2340, AS MODIFIED

Mr. KERREY. Mr. President, as I indicated earlier, I have to ask for one modification. It is a date on page 2, line 2. In the earlier unanimous consent request, I indicated that I might need to modify our amendment.

I send the modified amendment to the desk, as described.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2340), as modified, is as follows:

Beginning on page 277, line 4, strike all through page 279, line 25.

On page 280, line 1, strike "**3105**" and insert "**3104**".

On page 282, line 11, strike "**3106**" and insert "**3105**".

On page 286, line 1, strike "**3107**" and insert "**3106**".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "September 1, 1998".

On page 399, line 24, strike "the date of the enactment of this Act" and insert "December 31, 2001".

On page 400, lines 4 and 5, strike "the date of the enactment of this Act" and insert "December 31, 2001".

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability."

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking "or acquired".

(4) Section 357(c)(1) is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) is amended by striking "or acquisition (in the amount of the liability)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

SEC. 5010. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2001, and before January 1, 2008."

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2001, and before October 1, 2008."

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 2001.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on January 1, 2002.

SEC. 5011. MODIFICATION OF DEPRECIATION METHOD FOR TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 168(g)(3) (relating to tax-exempt use property subject to lease) is amended to read as follows:

"(A) TAX-EXEMPT USE PROPERTY.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (2) shall be equal to 150 percent of the class life of the property determined without regard to this subparagraph."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property—

(1) placed in service after December 31, 1998, and

(2) placed in service on or before such date which—

(A) becomes tax-exempt use property after such date, or

(B) becomes subject to a lease after such date which was not in effect on such date.

In the case of property to which paragraph (2) applies, the amendment shall only apply with respect to periods on and after the date the property becomes tax-exempt use property or subject to such a lease.

SEC. 5012. EXTENSION OF REPORTING FOR CERTAIN VETERANS PAYMENTS.

The last sentence of section 6103(l)(7) (relating to disclosure of return information to

Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 2003" and inserting "September 30, 2008".

On page 260, line 14, strike "shall develop" and insert "shall, not later than January 1, 2000, develop".

On page 305, lines 3 and 4, strike "the date of the enactment of this Act" and insert "June 30, 2000".

On page 305, lines 10 and 11, strike "the date of the enactment of this Act" and insert "June 30, 2000".

On page 308, line 13, strike "the date of the enactment of this Act" and insert "June 30, 1999".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 310, strike line 19, and insert "December 31, 1999".

On page 312, lines 15 and 16, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 314, lines 3 and 4, strike "the 180th day after the date of the enactment of this Act" and insert "December 31, 2000".

On page 315, line 11, strike "June 30, 2000" and insert "December 31, 2000".

On page 324, strike lines 9 through 12, and insert:

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after December 31, 1999.

On page 343, after line 24, insert:

(c) EFFECTIVE DATE.—This section shall apply to collection actions initiated after December 31, 1999.

On page 345, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 348, line 6, strike "December 31, 1998" and insert "December 31, 1999".

On page 351, lines 13 and 14, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 9 and 10, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, strike lines 16 and 17, and insert:

(B) December 31, 1999.

On page 362, lines 12 and 13, strike "the 60th day after the date of the enactment of this Act" and insert "December 31, 1999".

On page 370, lines 17 and 18, strike "the date of the enactment of this Act" and insert "January 1, 1999".

On page 371, line 11, insert: "This subsection shall apply only with respect to taxes arising after June 30, 2000, and any liability for tax arising on or before such date but remaining unpaid as of such date." after the end period.

On page 374, lines 4 and 5, strike "180 days after the date of the enactment of this Act" and insert "July 1, 2000".

On page 379, line 15, insert ", on and after July 1, 1999," after "shall".

On page 382, line 2, strike "60 days after the date of the enactment of this Act" and insert "on January 1, 2000".

On page 383, line 14, insert ", except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999" after "Act".

On page 385, lines 7 and 8, strike "the date of the enactment of this Act" and insert "January 1, 2000".

AMENDMENT NO. 2339

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes remaining.

Mr. ROTH. Is the Senator ready to yield the balance of his time?

Mr. KERREY. Yes, sir.

Mr. ROTH. Mr. President, I yield the balance of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. KERREY. 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 previous order, the question is on agreeing to the ROTH amendment No. 2339.

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

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA) is absent due to a death in the family.

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—56

Abraham	Faircloth	McConnell
Allard	Frist	Moseley-Braun
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Biden	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Hutchinson	Smith (NH)
Coats	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Collins	Jeffords	Specter
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Warner
Enzi	McCain	

NAYS—42

Baucus	Feinstein	Leahy
Bingaman	Ford	Levin
Boxer	Glenn	Lieberman
Breaux	Graham	Mikulski
Bryan	Harkin	Moynihan
Bumpers	Hollings	Murray
Byrd	Inouye	Reed
Cleland	Johnson	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Torricelli
Durbin	Landrieu	Wellstone
Feingold	Lautenberg	Wyden

NOT VOTING—2

Akaka	Helms

The amendment (No. 2339) was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2340

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 2340.

The amendment (No. 2340) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. May we please have order. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, this request has been cleared with the leaders on both sides.

I ask unanimous consent that the distinguished Senator from Texas, Mrs. HUTCHISON, and I may proceed for not to exceed 35 minutes as in morning business for the purpose of introducing a bill and speaking thereon.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized.

(The remarks of Mr. BYRD and Mrs. HUTCHISON pertaining to the introduction of S. 2036 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, I understand that Senator KOHL wishes a few minutes on another matter.

Whatever remaining time remains under our request, I ask that the Senator from Wisconsin, Mr. KOHL, have the remaining time.

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

The Senator from Wisconsin is recognized.

Mr. KOHL. Thank you, Senator BYRD.

Mr. President, I rise today in strong support of the IRS Reform bill. There is no doubt that this bill will count among the most important pieces of legislation that we will pass in the 105th Congress. A great deal of thanks and appreciation is due to Senators ROTH and MOYNIHAN for their work sheperding this bill through the Finance Committee, and most especially to my friend from Nebraska, Senator BOB KERREY, whose efforts on the Restructuring Commission and tireless advocacy brought us here today.

We have all been struck by the stories of abuse of taxpayers by overzealous or self-serving IRS employees. And all of us have received calls of concern and outrage from constituents who feel they have been treated unfairly by an agency that wields a tremendous amount of power in the daily lives of Americans.

We have also learned of retaliation against honest IRS employees who worked hard and wanted to do the right thing by speaking out against abuses. This legislation will go a long way towards addressing these problems.

It will also go a long way toward making the agency more effective in its policy mission and more responsive to budget constraints. We have all witnessed the $4 billion debacle of the IRS

computer modernization effort and want to ensure resources are allocated responsibly in the future.

As ranking member of the Treasury Appropriations Subcommittee, I have had the opportunity to meet the Commissioner of the IRS, Mr. Rossotti, and am encouraged by his strong background in management and information technology. The legislation before us will provide the Commissioner with tools to put together a high-quality team to run the agency, and award those who do their jobs well.

This bill also includes new sources of outside oversight of the agency, such as the Oversight Board and the new Treasury IG's Office for Tax Administration. Coming from the business world, I know the importance of accountability and constant self-examination. Management and employees should always be looking for ways to do their jobs more effectively and be open to constructive criticism.

But for too long, the IRS has operated as if it were a class by itself, somehow above the standards of efficiency and customer service that any American business must follow to survive.

We have witnessed the effects of this problem in my home state of Wisconsin. For the past two and a half years, we have worked to address allegations of misconduct and discrimination at the Milwaukee-Waukesha IRS Offices. These allegations were discussed at length at the Committee hearings last week, and were so serious that some IRS employees felt the need to sneak into my office in Milwaukee to report on abuses.

Employees feared retaliation and alleged again and again that management was allowing, if not promoting, a hostile work environment. Such a deplorable situation of fear and intimidation is unacceptable, must be stopped, and must be prevented from happening in the future.

This bill sets up a confidential means through which honest employees can report allegations of abuses. In addition, I am offering an amendment with my colleague, Senator FEINGOLD, to ensure that oversight of the Milwaukee office is a top priority of the new IG. This legislation will prevent abuses in the future, but we must also be vigilant in dealing with serious problems that have yet to be resolved in the present.

Mr. President, while taking time to mention only a few of the many important provisions of this bill, I want to urge my colleagues to support this legislation.

We have a historic opportunity to right future wrongs and be party to the creation of a more consumer-friendly, efficient and responsible IRS. Let us seize that opportunity with enthusiasm and without further delay.

Mr. BYRD. Mr. President, I yield back the balance of the time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I will rise to introduce an amendment, but I will defer to my colleague from Delaware if he wishes to ask for a time agreement.

Mr. ROTH. Mr. President, I say to the distinguished Senator that I do want to ask for an agreement on the 40 minutes, but I have to wait for Senator KERREY to return. I will raise that when he comes.

Mr. BOND. Mr. President, I rise in support of the Internal Revenue Service Restructuring and Reform Act that we are now considering. Over the past several months Senator ROTH and his Finance Committee have done an exemplary job of reviewing the legislation sent to us by the House and identifying ways to improve and strengthen that bill. And it's been well worth the wait. I also commend my colleague from Delaware and his committee for including a number of the proposals that I introduced as part of my Putting the Taxpayer First Act, earlier this year. They represent suggestions that I received from Missourians and small business owners across the country, who have called, written, and stopped me on the street to stress the need for IRS reform and greater taxpayer rights.

While I believe we have made substantial progress toward that goal, one aspect of this bill continues to trouble me—the creation of the so-called oversight board. As currently proposed, a majority of this board will consist of six individuals who must split their time between watching over the IRS and running their private-sector businesses—each of which can be more than a full-time job. And even if these individuals can dedicate sufficient time, their ability to make real changes for the benefit of taxpayers amounts to little more than advice to the Commissioner, which he may or may not decide to take.

Despite these issues, the creation of a part-time board has been portrayed by many as the linchpin of solving the problems at the IRS. But when has such a part-time advisory board ever turned around a governmental agency as vast as the IRS and with such a poor record of service to millions of Americans? I have searched for a comparable success story within our government, and came up dry. And while some point to Canada's Revenue Office as an example, Canada's part-time board is still on the drawing board. Consequently, I think we are placing too much reliance on the untested and unproven concept of a part-time board to bring fundamental change to the IRS.

If we are going to create a board to steer the IRS back on course, let's do more than add some window dressing to this troubled agency. America's taxpayers deserve a well-managed agency committed to service. The amendment I offer today establishes the framework to accomplish that goal.

Mr. President, my amendment creates an independent, full-time Board of Governors for the IRS, which will exercise top-level administrative management over the agency. The Board of Governors will have full responsibility, authority, and accountability for the IRS' enforcement activities, such as examinations and collections, which are often at the heart of taxpayer complaints about the IRS. In addition, the Board will oversee the Office of the Taxpayer Advocate and the new independent appeals function required by the bill.

Under my amendment, the Board of Governors will consist of five members appointed by the President and confirmed by the Senate, each with a staggered five-year term. Four of the members will be drawn from the private sector. Overall these members will bring private-sector experience critical to the management of an agency like the IRS. Of equal importance, they will bring the perspective of the diverse group of taxpayers the IRS must serve, including individuals and small and large businesses. The fifth member of the Board will be the Commissioner of Internal Revenue, who will also serve as the Chairman of the Board of Governors.

The board I envision through this amendment corrects the major weaknesses of the bill's part-time advisory board. First, my full-time Board of Governors is a permanent solution to the management difficulties that have plagued the IRS for years. It seems like little more than a token gesture to create an oversight board for the IRS and have it expire after 10 years, as set out in the bill. If a board is expected to turn the IRS around, wouldn't it make sense to continue the reason for that success story?

Second, my full-time Board of Governors will have real authority to make a difference. The Board's direction is to "oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party." The only exception to this broad authority is that the Board will have only a consultative role in developing tax policy.

In contrast, the part-time advisory board recommended by the Finance Committee starts with broad authority but is quickly whittled down essentially to an advisory role. For instance, the part-time board would have no responsibility or authority with respect to tax policy. In my view, good tax policy must take into account more than just revenue and collections; it must

consider the burdens that the law imposes on the taxpayers and the corresponding burdens involved in administering and enforcing those laws. A full-time Board of Governors managing the IRS will be uniquely qualified to provide critical perspective and feedback to the Treasury Department in crafting future tax proposals.

Similarly, the bill's part-time board would have no responsibility or authority over specific IRS law enforcement activities or personnel actions.

These restrictions fly in the face of the testimony that the Finance Committee received just last week, not to mention the committee's hearings last fall. Each of us was shocked by the taxpayers and IRS employees who came forward with accounts of poor service and abuse, and many of these cases involved IRS examination or collection activities. Moreover, these horror stories merely echo the countless letters and calls that each of us receives from taxpayers embroiled in disputes with the IRS in our home States.

Can any of us suggest, with a straight face, that creating a part-time advisory board will "fix" the IRS when that board cannot know about or address specific enforcement or personnel problems? While I am not suggesting that the IRS board should address every taxpayer grievance, the board should be able to take action with respect to specific types of examination and collection problems and those that involve IRS personnel.

Some will argue that the expansion of the taxpayer-confidentiality rules addresses this issue. I must disagree. The information that the part-time board will receive under this provision is dependent on the discretion of the Commissioner and the Treasury Inspector General. For too long, "section 6103" has been a convenient shield for the IRS to hide behind, and it will be too easy for that practice to continue leaving the board in the dark about the types of problems described all too clearly in the Finance Committee's hearings. In addition, limited access to taxpayer information won't help the board address personnel problems in the agency, which is critical if we are to restore credibility to the term "service" in its name.

My amendment resolves this problem. As full-time employees, the four members of the Board of Governors drawn from the private sector will have access to the same information available to the Commissioner. Moreover, the Board under my amendment will have authority to address personnel issues. As a result, their hands will not be tied when it comes to restoring taxpayer service and respect in all IRS enforcement activities.

The bill's part-time advisory board also starts out with authority to review and approve reorganization plans for the IRS. Yet tucked away at the end of the effective date section is a provision barring the part-time board from approving the current plan to reorganize the IRS along customer lines. This contradiction simply defies reason.

I am a strong advocate of reorganizing the IRS into divisions that serve particular taxpayers with similar needs, like individual taxpayers and small business owners, and I included such a plan in my Putting the Taxpayer First Act that I introduced. IRS Commissioner Rossotti has also embraced this approach. With so much support, why should we restrict even a part-time advisory board from approving such a fundamental restructuring of the IRS but require its review and approval for all future plans? The full-time Board of Governors under my amendment would be required to evaluate and sign-off on all plans to reorganize the agency—it only makes sense!

Mr. President, besides giving the IRS board real authority to run the agency and make critical changes, my amendment also ensures that the members of the Board of Governors are sufficiently committed to the task. Having been governor of my state of Missouri, I have some appreciation of the time and energy it takes to run a large organization. But I can't begin to imagine how I could have hoped to make a difference if I spent only a few days a year commuting to our capital, Jefferson City, to govern the state, and spent the rest of my time running a successful business or even a not so successful law practice. That is the trap we will create with a part-time advisory board for the IRS.

The IRS has over 100,000 employees spread across the country and around the world. The agency has a budget of over $7 billion, and it collects more than $1 trillion each year from millions of taxpayers. It is an imposing task for even a full-time Board of Governors to reform an institution of this size—common-sense suggests it is an impossible task for a part-time advisory board.

What's more, the proponents of the bill contend that its part-time board will improve accountability within the IRS. But take, for example, a part-time board member who is an executive in a major corporation headquartered on the west coast. He flies to Washington several times a year as part of his IRS oversight responsibilities. How can he be accountable for the daily actions of this enormous organization when he is little more than a hostage to its bureaucracy on his occasional visit to Washington? If we are going to make changes to the IRS' management structure, we should give them a real chance for success and give the taxpayers confidence that reform can be achieved.

Mr. President, while not everyone will agree with my proposal, let's take a moment to look at some arguments I've heard so far. Some have commented that we won't get the best people to serve on the IRS board if they have to leave their private-sector jobs for a tour of government service. As an example that just the opposite is true, I point to our current IRS Commissioner. In my assessment, Commissioner Rossotti has outstanding credentials and has been very successful as a business owner in the private sector. In addition, I think most of my colleagues would agree that he has done an exceptional job during his short tenure at the helm of the IRS.

This criticism also rings rather hollow when we look at the individuals who have served on similar full-time boards and commissions throughout the government, like the Federal Reserve, the Federal Trade Commission, and the Securities and Exchange Commission, to name a few. I've never heard it suggested that we scrape the bottom of the barrel to find people qualified to serve in these full-time positions. Just the opposite is true. As Commissioner Rossotti, Treasury Secretary Rubin, and many others have demonstrated, there are business leaders in this country who are willing to take leave from their private-sector lives to serve the public.

Others have argued that the IRS Commissioner doesn't need a full-time board to run the agency, especially since the bill gives the Commissioner broader authority to bring in senior management talent. If that's true, why do we need a board at all? Why not have just Alan Greenspan run the Federal Reserve or Arthur Levitt oversee the securities markets? Surely the same arguments would apply to those boards and those commissions.

I believe there is value in having a core group of individuals who bring important talents and experience to complement the Commissioner's management of an agency like the IRS. Just as with other boards and commissions throughout the government, these individuals can share the top-level management burdens and allow the Commissioner to focus on the most pressing issues completely and quickly.

A third issue raised by my opponents is that a full-time board with real authority will make the IRS too independent. So what exactly is the problem? Sadly, there have been allegations in recent years that the IRS is being used for politically-motivated audits. Whether true or not, such assertions severely undercut any efforts to instill confidence in our tax-administration system. While I applaud the provision in the bill that prohibits Executive Branch influence over taxpayer audits, we can further ensure that result by establishing a board with representatives of both political parties, as my amendment requires. In the end, there should be nothing partisan about helping taxpayers to comply with the

tax laws in the least burdensome manner possible.

Mr. President, my amendment offers a straight forward, common-sense solution for the management of this troubled agency and it cures the inherent weaknesses of the part-time advisory board called for in the bill. With a vast number of agencies across this city, including the city itself, managed under full-time boards and commissions, we have ample evidence that this structure can work for the IRS. In my opinion, if we want more than window dressing on the current management structure, a full-time, full authority, full accountability Board of Governors is the answer.

A part-time advisory board will not make a difference in how the agency is run. If we need a board, we need a full-time board. We don't need a part-time advisory board. Otherwise, if we do not want to have a full-time board, let's leave the agency's management alone, because when has a part-time advisory board ever turned an agency around? I suggest never.

AMENDMENT NO. 2341

(Purpose: To strike the Internal Revenue Service Oversight Board and establish a full-time Board of Governors for the Internal Revenue Service)

Mr. BOND. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. BOND) proposes an amendment numbered 2341.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ROTH. Mr. President, as I indicated before the distinguished Senator from Missouri spoke, we had a tentative agreement of 40 minutes for this amendment, with 20 minutes to a side. I ask that we unanimously agree to that with the time that the distinguished Senator used to discuss the amendment being deducted from the 20 minutes. I understand that is roughly 13 minutes. Is that satisfactory?

Mr. BOND. I ask for 10 minutes, because there are others on this side who may wish to speak.

Mr. KERREY. Mr. President, I wonder if the Senator from Delaware would agree—Senator REID has an amendment he wants to bring right after this—that we stack these votes, and have a UC to have both of these votes stacked.

Mr. ROTH. That would be fine.

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

Mr. KERREY. We would have to get a time agreement.

Mr. ROTH. Let's agree on the Bond amendment first; the agreement being 40 minutes divided between the two sides, and that Senator BOND would have the remaining 10 minutes.

Mr. BOND. That is correct. Mr. President, 20 minutes for the side in opposition, and 10 minutes.

Mr. ROTH. And no second-degree amendments.

The PRESIDING OFFICER. Could I ask the Senator to restate the unanimous consent request.

Mr. ROTH. Mr. President, what we are proposing for unanimous consent is 40 minutes for consideration of the amendment to be divided between the two sides, that it be agreed that the distinguished Senator has 10 minutes remaining on his side of the 20 minutes.

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

Mr. ROTH. And I would also add there would be no second-degree amendment.

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

Mr. KERREY. Could we modify it so we go to Senator REID'S amendment next and have rollcall votes not before 1:15?

Mr. ROTH. Let's wait on the rollcall votes. We can go ahead with the Reid amendment.

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

Mr. BOND. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BOND. Mr. President, I ask unanimous consent that there be a minute on each side for the proponents and opponents to state their case on the amendment since the vote is going to be stacked later.

Mr. ROTH. That is fine.

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

Mr. ROTH. I yield 10 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. GRASSLEY. Mr. President, I, unfortunately, oppose the amendment by the Senator from Missouri. I say "unfortunately" because the Senator from Missouri has good motives in offering his amendment. They come from the fact that he has been an outspoken advocate for small business in the Senate. He has made a career of promoting an environment very good to small business, and obviously we all know that sometimes the Internal Revenue Service is one Government agency that tends to be anti-small business. We had a lot of information coming out of our hearings that IRS agents are told to go after the small people—forget about the bigger, wealthier people—because smaller people do not have the resources to fight.

That is particularly true of small business where you have accumulated some wealth in a small business but you do not necessarily have a lot of income. And so you do not have the resources to fight the IRS. So I do not find fault with the motives behind what Senator BOND is trying to do.

I definitely believe this bill we have before us, including the provisions for an advisory board, has been well thought out. The National Commission on the Restructuring of the IRS created the concept of this Board. We assessed the various pros and cons of separating the IRS from the supervision of the Secretary of the Treasury and making it more independent. We decided that it needed more independence. Next, we had to decide how the independent operation should be governed. To answer this, we came up with the Oversight Board.

So I thank Senator BOND for his advocacy for small business and his concern about this important legislation. But at the same time I think I must rise in opposition to this amendment. The Commission came up with this idea of having an oversight board for the IRS after months and months of discussion and consideration. It was a recommendation that we on the Commission put in our report because we thought it would keep the IRS on track and improving in the right direction. The Senator from Nebraska and I made this board one of the centerpieces of our legislation, S. 1096, which, of course, was the first comprehensive IRS reform legislation introduced in the Senate.

The National Commission on Restructuring of the IRS—Senator KERREY and I, two members of the House of Representatives, and 13 other people served on this Commission. Ten of the members were nongovernmental, private sector people who knew about the problems that the private sector was having with the IRS. We fully considered adopting a full-time oversight board at one time, but we came to the conclusion that it was not an advisable thing to do. We decided that this part-time board would be more effective, and I will give you the reasons for that.

First of all, the purpose of the board is to be advisory, not to manage the IRS. It is meant to function like a corporation's board of directors. It is not intended to get involved in the day-to-day operations of the IRS because the IRS already has a leader—the commissioner. And by the way, this is the first nonlawyer and more specifically nontax lawyer who has been head of the IRS. Mr. Rossotti, or somebody with his background from private sector management, brings to the management of the IRS a person who is consumer oriented, customer oriented.

His own private sector corporation had to satisfy his consuming public for the services that he sold or he would not have been in business. He would not have developed a successful business. So to have a nontax attorney for the first time running the IRS is very, very good because it brings somebody in there who knows that organization ought to serve the taxpayers and not be a master of the taxpayers. He has already led the organization in some important changes and I have great confidence that he will continue to make productive changes. He will do a better job because of this legislation.

In addition, it seems to me that a full-time board would not attract the people who we want to attract to this board. A full-time board too often in this town attracts inside-the-beltway, Washington career people. That is not the type of person we want on the board.

What the IRS needs is guidance from people who come from the real world of work, people outside the beltway, people who are real Americans. It needs experts in business, management and customer service. It needs people who are willing to take the time in the name of public service to help guide the IRS, through this recovery period it is now in. The IRS does not need people who consider the full-time job of being on the IRS board a good career move. The fact is the people we want to serve on this board will not give up their full-time jobs to do it.

This bill is not intended to create more bureaucracy. We have too much bureaucracy already. This is generally true throughout Government. But we found it is definitely the case in the IRS. A full-time board would just be one more layer in an organization with way too many layers of bureaucracy already. For these reasons, I ask my colleagues to join me in opposing this amendment. If we want the IRS to be customer friendly, like a corporation must be, we must give it a corporate-like board.

I thank the Chair. I yield back the remainder of my time to be reserved.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, let me first do as the Senator from Iowa did, Senator GRASSLEY, and compliment the intent of the distinguished Senator from Missouri. I started out exactly where the Senator from Missouri is, considering that a full-time board would be best. What I have concluded is that over time, examining what this board is going to be doing—and let nobody doubt, by the way, this board has substantial powers. This is not an advisory board. There are a number of things that we specifically say they cannot do, in order to avoid conflict of interest with procurement and with personnel and with confidentiality, but this board oversees the IRS in its administration, its management, its conduct, its direction, and its supervision of the execution and application of the IRS law.

It has substantial powers in making recommendations to the President as to who the Commissioner ought to be and has the power to recommend the Commissioner ought to be terminated. I urge colleagues to look at section 1102 of the proposed legislation.

I share the conclusion Senator GRASSLEY has just iterated in his opposition to this amendment; that is, that a full-time board would actually restrict our capacity to go out and get the people with the kind of talent that we need to be on this board in the first place. There are an awful lot of Americans who have expertise in management, have expertise in computers, have expertise in the operation of a large organization. They especially have expertise in restructuring, which is going to be a very, very important piece of work that Mr. Rossotti will have the authority to do, restructuring and changing the nature of an organization.

We need people with all those kinds of expertise. And if you require the individual to serve full time, my conclusion, strongly felt, is you will exclude large numbers of citizens who would say: If it is part time, I'm prepared to sit on this Board as a consequence of my desire to improve the way this IRS is operated. My desire to improve it is strong enough to serve part time, but I can't possibly do it full time. We are going to reduce the list if we make it full time, of citizens who could serve in this way.

In addition, I point out this board sunsets in 2002; thus, Congress would have the opportunity to revisit and make a determination as to whether or not, as a result of the experience that we have had, this board needs to be full time.

So I urge those who were concerned about this board being part time, on the one hand to consider we are going to restrict our ability to get the kind of expertise that is needed on this board, and, second, we will have an opportunity, after 5 years, to revisit this issue. If the experience of this board is that they are recommending to us that full time would be better than part time, we will have ample opportunity to make that judgment.

I urge my colleagues, with great respect to the Senator from Missouri and his intent, to vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield myself such time as I may require. I thank my colleagues from both Iowa and Nebraska for their very thoughtful comments. As I said earlier, I appreciate so much the excellent work the Finance Committee has done on restructuring of the IRS. Truly, it is a very important issue.

Primarily, I hear them raising the point that we can't get people to serve if we have a full-time board. We are making it a small board. We need four individuals who want to serve.

Some say you can have part-time people who can come in and get the big picture authority. The problem is, we need them to work on specific law enforcement activities and personnel actions. We are not talking about somebody giving them the big picture; we are talking about somebody taking management responsibility. If individuals would serve, is their question. They say we can't get good individuals to serve.

We have the Commissioner of the IRS. He came from the private sector. He was willing to move in. Private-sector individuals have served, and have served with great distinction, in related areas, where they do an excellent job. Why should we think it is harder to get people to serve on the IRS board than it would be to serve on the FTC board or on the SEC? These are issues that I think are very closely related. If we can't get good people to serve on that board, I would be very much surprised. We would not see a part-time advisory board dealing with actual cases of taxpayer abuse. They would have to do so only when the Commissioner or the Treasury Inspector General said they could.

Let's just take an example—the alarming revelation last week that former Secretary Howard Baker and former Congressman James Quillen were the targets of a vendetta by a rogue IRS agent. Even more troubling, more troubling is that the agent's activities were covered up by numerous officials in the IRS district office.

This case clearly demonstrates a pattern of bad behavior in one office, but it may be indicative of structural or procedural defects throughout the agency. Are we really going to tie the hands of the IRS board and only permit it to review such problems as the Commissioner or the Treasury IG permit it? I say not. If we are going to do the job, we ought to do it right. Without this authority, the board will only find out about the problems like the rest of us—when the press points them out or when we have to go through a congressional hearing.

The problems of the IRS are well known. Now we need to make sure we fix them, not just tinker around the edges. The Bond amendment replaces the IRS management structure of a Commissioner plus a part-time limited authority board with an independent full-time board of governors, including the Commissioner. It is not an accident, as I have said earlier, that the

SEC, the FTC, the Federal Reserve, are all run by boards or commissions. These agencies carry out sensitive regulatory and enforcement duties, and they must be insulated from political motives. Insulation from political motives is one of the objectives we must achieve in this IRS restructuring. The American taxpayer deserves the same level of protection as the people who are governed by and are subject to the rules and regulations of the SEC and the FTC and the FCC.

Who has not heard of the allegations that the IRS has targeted out-of-favor groups or those who seem to have nothing in common but their opposition to various White House policies? No American should have the enforcement powers of the IRS unleashed on them because they don't agree with the White House on an issue. I think that is simply why my amendment is so necessary. Under the current bill, the only way the part-time board would have known about the abuses we learned about last week is the same way the rest of us did when we watched Senator ROTH's hearing on television. That is how limited the authority of the part-time board is.

We need real reform of how the IRS does its business. I believe putting a full-time, independent board in place to run the agency is the best way to do that. I say to those people who really want reform, if you really believe a board is essential to restructuring the IRS, then I say let's get out and run with the big dogs; let's get a full time, independent board. Otherwise, get back up on the porch, because a part-time advisory board is not going to even have a large bark; it will have a minor meow.

If we are going to put some teeth into it, we need to have the teeth that a full-time, independent board governing the IRS can give to managing the agency, to make sure it does not abuse taxpayers.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. SHELBY. Mr. President, I rise in support of Senator BOND's amendment to establish a full-time IRS Board of Governors. I firmly believe that oversight of an agency with the equivalent of 100,000 full-time employees, a requested fiscal year 1999 budget of almost $8.2 billion, and a history of wasting $4 billion in an attempt to modernize the tax collection system, is, without question, a full time job.

Furthermore, rigorous oversight will be critical to ensuring that the reforms that Congress has in store for the agency will be carried out effectively and expeditiously. I think the prudent strategy is to keep the agency on a very short leash given the shocking stories that have come to light from the recent Finance Committee hearings. I have my own ideas as to how to liberate the taxpayer from the IRS—namely the implementation of my flat-tax proposal. But short of comprehensive tax simplification, I strongly support Senator BOND's efforts.

Mr. President, the IRS is a very troubled agency that demands the highest level of scrutiny. I strongly urge my colleagues to support this amendment. I feel we owe it to the American taxpayer.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Delaware has 10 minutes.

Mr. ROTH. Mr. President, I yield myself such time as I may use.

Mr. President, I, too, join my colleagues in paying my respects to the distinguished Senator from Missouri. He brings a wealth of background and experience, so his comments are always welcomed and listened to with great care. While I completely agree that the IRS oversight board must be adequately structured, I respectfully urge my colleagues to oppose this amendment which would make the IRS oversight board a full-time board.

In my judgment, the board should be a part-time board. The purpose of the board is to provide "big picture" oversight over the IRS, provide specific expertise to IRS management to ensure accountability at the IRS, as well as to ensure that taxpayers are being treated and served properly.

The purpose of the board is not to micromanage the IRS. Commissioner Rossotti is a management expert, unlike his predecessors who were experts in tax law. As I have said many times on the floor, I think we are very fortunate in having an individual of his qualifications, his expertise, not only in management but high tech as well. I believe we should support the manager and provide a board that will help him turn the troubled agency around.

It is my judgment a full-time board would destroy the delicate balance we tried to include in this legislation. The Commissioner, not the board, should manage the IRS.

A full-time board would bog down in details, diffuse accountability, and I fear very much probably not include the type of individuals, the experts, the background, and vision that are necessary on the board. Also, I have to say that I would doubt that Commissioner Rossotti might remain with the IRS if the board were full time.

The very basic question is what would be the point? While I agree with my colleague's objectives, I do not believe that a full-time board would enhance the prospect of turning this agency around. In fact, making the board full time could very well undermine the purpose of this legislation.

As my distinguished colleague, the Senator from Nebraska, has pointed out, the board is sunsetted. There will be an opportunity in the future to see how this board is functioning, whether it is working in the manner that we hope and believe it will.

I urge my colleagues, Mr. President, to vote against the full-time board. I reserve the remainder of my time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I, again, commend my colleague from Delaware for his outstanding leadership. I will only say that Commissioner Rossotti is going to leave sometime. I think it is important for us to make a structure which gives us the possibility of real reform in the IRS. An advisory board, in my experience in dealing with advisory boards, cannot and will not make a difference in the day-to-day management, the selection of IRS audits and the running of the agency which is the issue on the minds of American taxpayers. We need to do the job right, and I believe we need to make the change now.

Mr. President, if the distinguished manager of the bill has no further people wishing to speak—the ones who wanted to speak in support of the amendment are otherwise occupied—I am prepared to yield back the remainder of my time. We have 1 minute on each side prior to the vote. If the manager is finished with his speakers, I will join him in yielding back whatever time remains.

Mr. ROTH. Yes, Mr. President, I am pleased at this time to yield back the remainder of our time.

Mr. BOND. I yield back the remainder of time on our side. I thank the distinguished Senator from Delaware.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ROTH. Mr. President, I ask unanimous consent that following the expiration or yielding back of time on the pending Bond amendment, it be temporarily set aside and a vote occur on, or in relation to, the Bond amendment at 1:15 p.m. today.

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

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

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

PRIVILEGE OF THE FLOOR

Mr. REID. I also ask unanimous consent that a congressional fellow, Alan Easterling, be allowed privileges of the floor during this issue that is now before the Senate.

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

AMENDMENT NO. 2342

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate payments for detection of underpayments and fraud)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2342.

Mr. REID. 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 end of subtitle H of title III, add the following:

SEC. . ELIMINATION OF PAYMENTS FOR DETECTION OF UNDERPAYMENTS AND FRAUD.

(a) IN GENERAL.—Subchapter B of chapter 78 is amended by striking section 7623.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

Mr. REID. Mr. President, as Members of this body know, I have worked long and hard with other Members of this body to change how the IRS functions. The first speech I gave on the Senate floor after being elected in 1986, was on the Taxpayer Bill of Rights. As I presented my remarks that day, presiding was Senator David Pryor of Arkansas. At the time, he was chairman of the Subcommittee on Finance that dealt with the Internal Revenue Service. Also, that same day in the Chamber was CHARLES GRASSLEY of Iowa, a longtime proponent of changes within the Internal Revenue Service.

I received a note from Senator Pryor after I finished my remarks that a page delivered to me, indicating he wanted to work with me on the legislation that I talked about. That same day, I received word from Senator GRASSLEY he wanted to work with me.

This was bipartisan legislation. The bill that I wrote, the Taxpayer Bill of Rights—because of these two Senators; the Senator from Arkansas, the Senator from Iowa; a Democrat and a Republican—we were able to move this bill through the Senate. It passed in 1988 and became law. It was really a significant change. The Taxpayer Bill of Rights changed the way the taxpayers dealt with the tax collectors. It put the taxpayer on a more equal footing with the tax collector. It was the beginning of some major changes in the way we deal with the Internal Revenue Service.

The Taxpayer Bill of Rights No. 2, in 1996, was also a change. But we are here now because of H.R. 2676, the IRS Restructuring and Reform Act of 1997. I say to the chairman of the full committee, the senior Senator from Delaware, I appreciate his working hard on this issue. I think the hearings have been informative to the American public and indicate that we need to do more. The Taxpayer Bill of Rights No. 1 and No. 2 were important, but we need to go further.

I was one of those initial sponsors of this legislation in the Senate. Senator KERREY of Nebraska, Senator GRASSLEY of Iowa, and I held a press conference where we talked about this legislation. At that time we didn't have a lot of support. But the support has built, and now we have support from the administration, and it is once again bipartisan legislation.

I look forward to the opportunity to speak in favor of the speedy passage of this much needed and long overdue reform.

What I want to talk about today in my amendment is one of the things that leads to the bad press, the bad feelings that the American public has about the IRS. What I want to prohibit the IRS from doing in the future is continuing with a program that I refer to as the "Reward for Rats Program." This is a program where the IRS, in effect, has a contingent fee, much like a lawyer gets in a personal injury case. They say, "If you have somebody who will snitch on a neighbor, an ex-wife, or business partner, and this will lead to our collecting money, then we will give you part of that money."

I believe anyone who owes money to the Internal Revenue Service should pay it. But I think it should be collected in a way that is in keeping with the American system, not go into people's personal lives, where you have a wife—former wife or former husband who just completed a long divorce, and the IRS contacts one of them and says, "Hey, if you can give us a little information on your ex-spouse, then we will give you part of the money we collect."

I think this is wrong, and I think we should stop it. There is nothing specifically in the statute which allows this. The problem is, there is nothing that disallows it. That is what this amendment would do. It is a practice which, if it isn't corrected, will be permitted under this legislation now before the body.

Last week, the Senate Finance Committee, under the leadership of the senior Senator from Delaware, conducted hearings in the cases of abusive practices by employees of the IRS. Witnesses before that committee provided testimony which describes an organization prepared, I am sorry to say, to use virtually any means to collect this Nation's taxes.

Again, I think the taxes should be collected but it should be in a fair way. An organization apparently prepared to take advantage of individual greed or desire for revenge to identify, rightly or wrongly, citizens who have failed to pay their taxes is something we need to do away with.

Last week, we learned of a restaurant owner whose life was ruined on the basis of no more than a tip from a vengeful informant. As recently reported in the press, we learned of a tax accountant who snitched on a client, motivated only by the expectation of payment for betraying a confidential relationship. In both cases that I have just provided, the information was false.

Such informants, most of the time, are not acting in some sense of civic duty. They don't act from a selfless interest in the Nation's well-being. They act against friends, relatives, employers, and associates because the IRS pays them to do so.

Under section 7623 of the Internal Revenue Code of 1986, they are authorized to pay sums, as required, to informants in order to bring to trial violators of Internal Revenue laws. In plain English, the IRS pays snitches to act against associates, employers, relatives, and others—whether motivated by greed or revenge—in order to collect taxes. I find this activity unseemly, distasteful, and just wrong.

Under the current IRS program, these informants are paid up to 15 percent of the money recovered as a result of their tips, but no less than $100. In a recent change to the so-called Snitch Program, the Service increased the maximum allowable reward to $2 million—a powerful incentive to anyone interested in becoming rich at the expense of a neighbor, former business associates or business associate, former wife, former husband.

As if the desire for revenge alone hasn't been responsible enough for ruined lives, the Service has a $2 million jackpot to sweeten the payoff. For the nosy neighbor, the alienated spouse, or the wronged partner, the odds of seeing that payday may appear better than anything the State can offer. This program is unethical, it is contrary to taxpayer privacy, and inconsistent with the spirit of the Taxpayer Bill of Rights.

Let's assume that someone comes to an accountant with a tax problem—under the present law, there is no confidentiality; we are trying to change that, of course—comes to an accountant with a tax problem, thinking, of course, you have to get this thing worked out with your accountant; and the accountant walks out after the meeting and calls the IRS and says, "I have somebody you can get a real good chunk of money from, but of course I get 15 percent of it."

I think that is wrong. It is contrary to taxpayer privacy and inconsistent with the spirit of the Taxpayer Bill of Rights which was passed previously.

The IRS would have you believe that these programs—this snitch program is warranted because of the millions of dollars it is able to collect through the snitches. This simply demonstrates

that the IRS is relying upon others to do its work. It shouldn't be up to friends, families, coworkers, and neighbors to ensure taxes are being paid; it is up to the IRS. We should not be paying private citizens to perform the job the IRS employees are expected to carry out.

I think this program should come to an end. To that purpose, I propose this amendment, which will eliminate the payments for detection of underpayment and fraud. The amendment to eliminate the reward of greed and invasive action against honest taxpayers should pass.

I propose that in the process of reforming and restructuring the Internal Revenue Service, we join together to eliminate the "Reward for Rats Program." It is time that this snitch program be eliminated and that we restore greater civic order to the manner in which the IRS conducts itself.

The amendment is considered important because it reforms the IRS, it fundamentally overhauls the manner in which they conduct business, and it serves the customers and also allows a more orderly way of collecting money. This amendment addresses an unethical and destructive program employed by the IRS in the collection of revenues. In that the amendment eliminates the program, it must be considered consistent with the spirit of this bill.

I ask unanimous consent to have printed in the RECORD a story from the Los Angeles Times dated April 15, 1998, entitled "Rewards-for-Snitches Program Comes Under Fire," which illustrates what the problem is we are trying to correct.

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

[From the Los Angeles Times, Apr. 15, 1998]

IRS "REWARDS-FOR-SNITCHES" PROGRAM COMES UNDER FIRE

(By Ralph Vartabedian)

WASHINGTON.—Americans voluntarily hand over most of the $1.3 trillion owed to the Internal Revenue Service each year, but a tiny fraction of tax collections depends on an obscure and increasingly controversial IRS program of using paid informants.

Motivated by a combination of greed and revenge, informants are typically business associates, employees, acquaintances, neighbors or ex-spouses of tax cheats. Many experts say the program is one of the most unseemly parts of the U.S. tax system.

However, IRS officials say they exercise great care in handling the informants, weeding spurious allegations, and that the rewards play an important role in the nation's tax enforcement system.

The IRS pays the informants up to 15% of the taxes it recovers from their tips—up to a maximum of $2 million—though the vast majority of informants end up empty-handed.

After a series of recent congressional disclosures about widespread taxpayer abuses, watchdog groups are growing concerned about the ethics of the agency's informant reward program.

"We should refocus our efforts on good citizenry, not bribing people to answer questions," said John Berthoud, president of the nonpartisan National Taxpayers Union, who called on the IRS to end the program in an interview with The Times.

The program has been sharply criticized by individuals who say they were victimized by bogus allegations, and even by informants, such as Mary Case of Sherman Oaks, who say the IRS has stiffed them on their rewards.

The Senate Finance Committee, which has been broadly investigating IRS abuses over the last year, is expected to unveil new evidence later this month that taxpayers have been devastated by aggressive IRS investigations based on phony information from snitches.

ONE TAX ACCOUNTANT SNITCHED ON HIS CLIENT

Tax attorneys and accountants generally decry the informant reward system, asserting that the government is on thin ice in offering money to taxpayers to turn each other in. They argue that a cornerstone of the U.S. tax system is the protection of taxpayer privacy and that the IRS is wrong to encourage people to breach confidential business or family relationships. In one case, a St. Louis tax accountant informed on his own client.

"It smacks of communism, turn in your parents if you catch them cheating," said San Francisco tax attorney Frederick Daily, author of the book "Stand up to the IRS."

Bruce Hockman, a top Los Angeles tax attorney whose clientele includes the rich and famous, refuses to help clients snitch to the IRS. "I have had people come in and ask me to take them downtown to IRS district headquarters," Hockman said. "I say no way. The Nazis did it, turn people in. It is unseemly."

Of course, Congress authorized the IRS to create the informant reward program in the first place. Former IRS historian Shelley Davis says her research indicates that informant rewards date back to the Civil War era.

Tipsters are one of the important parts of the IRS toolbox for enforcing tax compliance, says Thomas J. Smith, assistant IRS commissioner for examination and chief of the agency's informant reward program.

93% OF SNITCHES' TIPS END UP IN TRASH CAN

IRS figures for 1996, the last year for which data are available, show that 9,430 Americans sought rewards. Of those, the IRS acted on just 650—meaning that 93% of the tips ended up in the IRS garbage can. The IRS paid out about $3.5 million in rewards and recovered $103 million in taxes.

"If you look at the last three years, we have had 2,000 cases closed, resulting in taxes of $797 million," Smith said. "So, in terms of dollars, most people would judge that as reasonably significant. It does supply a very useful source of information for us."

The IRS has a national informant hotline (1-800-829-0433), though many informants walk in or call in to the IRS' 33 district offices or 10 regional service centers, Smith said.

With little fanfare and with no explanation, the IRS last year decided to substantially boost the maximum allowable award to $2 million from $100,000. It also set a minimum reward of $100, eliminating a lot of penny ante payments.

In 1996, the agency's largest award was a jackpot-size $1.06 million. (The agency does not disclose who gets the awards or what cases they involve.) The agency's smallest was just $18—less than the typical reward advertised in newspapers for lost dogs.

Under the new guidelines, rewards range from 1% to 15% of the tax recovered, depending on the assistance provided by the informer. But all awards are at the "discretion" of IRS officials, who make their decisions behind closed doors. Of course, the rewards are taxable income.

The IRS takes a low-key approach, not seeking to send the message that the federal government is actively recruiting paid stool pigeons. The agency does not make Form 211, which informants must fill out to claim a reward, widely available. It isn't even kept in the IRS national headquarters lobby, where the agency has almost every form on display.

Asked if the IRS encourages Americans to inform on others, Smith said he could offer no advice and suggested that individuals do what they feel is right. But former IRS officials are more blunt.

GARBAGE INFORMATION COMES STREAMING IN

"Informants rewards are pretty distasteful to everybody except the person who gets one," said Phillip Brand, a tax expert at KPMG Peat Marwich LLP and former IRS chief of compliance. "People have a different feeling about informing when they do it as good citizens."

Another problem with paying for information is that the IRS gets a lot of garbage information. Brand recalled a tipster once sought a reward for the disclosure that a secretary of State was dealing drugs to Queen Elizabeth II and not reporting the sales on his taxes.

But week allegations are less humorous when the IRS pursues them against innocent taxpayers. That apparently happened to John Colaprette of Virginia Beach, Va., whose home and two restaurants were raided in 1994 by armed IRS agents after his bookkeeper, Deborah A. Shofner, made phony allegations.

The bookkeeper was later arrested and charged with stealing from a Colaprette restaurant, the Jewish Mother. She was sentenced to 6 years and 11 months in Virginia.

"This case was investigated for just one and a half days before they obtained a search warrant, which was then executed 12 hours later," said Colaprette, who is expected to testify this month before the Senate Finance Committee's hearings on IRS abuses.

Although the committee is saying little about its planned hearings, it is expected to focus on the IRS' criminal investigation division, which handles most of the paid informants and conducts a wide range of undercover operations.

Since the raid on the Jewish Mother, the IRS has never assessed any back taxes or made any changes to his tax returns, Colaprette said. He has a $20-million suit against the IRS.

"Why do we have an agency that nobody controls?" Colaprette asked.

It isn't unusual for the IRS to deal with informants who violate confidential relationships. Like Colaprette's bookkeeper, when St. Louis tax accountant James Checksfield informed on his own client in 1989, he was discredited. The government dropped its tax evasion case against the client and the accountant lost his license.

Smith, the IRS chief of exams, said he could not discuss any specific cases because of privacy laws. But he said the IRS carefully screens allegations and is mindful of the potential for bogus information.

"It is a concern that we take very seriously," Smith said. "We absolutely try to be very careful about looking at returns with the greatest probability of error." Smith added that 89% of the returns examined as a result of a tip end up with changes.

While it isn't surprising that the targets of allegations feel abused, informants also are

often frustrated over how the agency treats their claims.

IF CASE ISN'T CLOSED, NO REWARD IS PAID

Case, the Sherman Oaks woman, tipped the IRS in 1985 to Stanley D. Hexom, a San Jose real estate broker later accused of swindling millions of dollars from elderly California investors in fraudulent real estate deals. She has never received a reward from the IRS, but neither has the agency closed her case.

As Hexom's bookkeeper, Case provided IRS agents boxes of evidence, including copies of doctored tax returns and locations of bank accounts, as well as testifying to a federal grand jury.

Under IRS guidelines, an informant who provides such specific information is supposed to get 15% of the back taxes. But a big caveat is that the IRS has to actually collect the back taxes. So, if the agency comes up empty-handed, so does the informant.

There is no doubt that the IRS went after Hexom, who was convicted on two counts of bank fraud and one count of preparing a false tax return. IRS agents tried to collect from Hexom's wife, though she may have escaped assessment by claiming she was an innocent spouse, said Richard Blos, Hexom's attorney in San Jose.

Hexom was released from prison in 1993 and is currently living in the Phoenix area. He could not be reached for comment.

Smith acknowledged that the agency is often criticized for taking too long time to pay rewards, but he added that 13 years is an abnormally long time for an informant to be kept waiting.

Other informants say the agency's criminal investigation division takes all the credit for big money cases and undermines the role played by informants.

Joseph Pinnavaia, an Oceanside gemstone expert, helped the IRS crack a tax fraud ring in the early 1980's, in which worthless stones were being donated to museums for big tax write-offs.

Pinnavaia died last November, but not before completing a manuscript, entitled, "The Most Corrupt Agency in the Federal Government: The Internal Revenue Service," which detailed how the agency mishandled his case.

With Pinnavaia's help, the IRS went after a doctor in Florida who had donated an allegedly worthless blue topaz gem to the Smithsonian Institution. By 1979, the IRS was receiving 10,000 tax returns a year with deductions for gemstones, it was later discovered.

Though Pinnavaia was awarded $11,000 for his help in the case, he asserted that the IRS cheated him by claiming it already knew about the larger nationwide fraud ring. The manuscript, a copy of which was provided to The Times, includes a variety of internal IRS documents, in which criminal division agents downplayed his role in the case.

"He felt the $11,000 didn't even cover his expenses," said Mathew D. Pinnavaia, his son. "They tried to deny he played any role."

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. First of all, let me say to the Senator from Nevada, long before I got on this issue of taxpayer rights, the Senator was there, working on Taxpayer Bill of Rights 1 and Taxpayer Bill of Rights 2. This legislation in title III is a continuation of your work. And I appreciate very much your early support of this bill that enabled us to fashion this legislation in a bipartisan way, which I think allows us to make certain that we can extend the rights and power and authority to the taxpayer and stop abuses that we see within the IRS's capacity to collect money that this Congress authorizes is to be collected.

I appreciate, specifically, the problem you are identifying with your amendment. It is a problem that, thanks to Chairman ROTH, we heard before our committee. We saw the problems that can occur when you offer somebody, essentially, a reward to inform; you can get abuse from that. As the Senator knows, as I have heard him talk about this as well, the dilemma is, how far do you go? We have this mechanism being used throughout law enforcement and there are many times when it works and when it is not abuse.

I am wondering if the Senator would allow to us modify his amendment so it can require the commissioner to do a thorough analysis of this problem. Commissioner Rossotti has had this brought to his attention. It would require him to do a thorough analysis of this problem and then come back to us and say, how can we change the law so as to make certain that you are able to use this system when appropriate, but we can get rid of some of the abuses that are quite obviously not the intent of this Congress.

Mr. REID. Mr. President, I say to my friend from Nebraska that I appreciate the kind comments about my work on the Internal Revenue Service tax issues generally in the past. I also want to say that but for the Senator from Nebraska, we would not be on the floor today. The people of Nebraska should understand, as I am sure they do, the tenaciousness of the senior Senator from Nebraska. The work that he has done on this issue—when the history books are written about tax reform in this country, one of the chapters has to be dedicated to him. I personally appreciate, on behalf of my constituents from the State of Nevada, the work that you have done on this issue. I also think the work done on the underlying legislation, giving the commissioner of the Internal Revenue Service the power to do some things for a change will allow the commissioner to take a good look at this program and make some suggestions, which in the past fell on deaf ears because he had no power and authority to do anything. So I think we have a good commissioner. I am willing to have my amendment modified. I think it is a step in the right direction. There may be some things that I don't understand having only gotten——

Mr. ROTH. Mr. President, if the Senator will yield. I find it very difficult to hear what the distinguished Senator is saying.

Mr. REID. Mr. President, I am happy to talk a little louder. I say to my friend from Delaware that this has always been one of my habits. I can remember when I first started trying cases, there was a judge named Marshall—and Las Vegas only had 3 or 4 judges at the time—and he was hard of hearing. I would get up and talk to the jury and he could not hear what I was saying, so he would get upset at me. He thought I was saying things I didn't want him to hear. That wasn't the case then and it's not the case now. I will try to be more direct to the Senator from Delaware.

What I was saying is that I think this underlying legislation gives the commissioner of the IRS power he didn't have before, which is good. One of the problems we have had in the past is that the commissioner of the IRS has had no power to make changes in the way the Service operates. This legislation certainly gives him power to do that.

So, as I said to my friend from Nebraska, and I say again, I am willing for my amendment to be modified to have the commissioner report back to us within a reasonable time as to whether or not this program should be terminated in its entirety, or whether it should be modified. There may be instances when there may be a need for some type of a contingent fee. I am not aware of any, but there may be. I have enough confidence in the underlying legislation, which will be in effect in a few weeks, we hope, and in the commissioner of the IRS that I am willing to allow my amendment to be modified.

Mr. ROTH. Mr. President, I say to the distinguished Senator from Nevada that that is a very positive step, a very sound way of addressing the problem. It has been the practice in Government, as he well knows, that contingent fees are sometimes made available, not only in the IRS, but I believe in other areas of activity as well. As we all witnessed last week, this practice was used in an extremely abusive manner—a manner that should be dealt with. So I can understand the Senator's concern and interest in this matter.

I appreciate it and would find it acceptable, as far as I am concerned, if he would modify this to make a study, and within a limited time come back. I think we do have a new commissioner that is very effective and is bringing about change. This would help give him direction, and we think this is a matter of critical importance.

Mr. REID. If the Senator from Delaware will yield. I say to the manager of the bill, I think also that we focused attention, through the hearings that you have held, newspaper articles written, and through this amendment, on this practice that I am sure the commissioner will have enough information to come back to us as to whether or not this practice should be continued, modified in some way or, as I said, eliminated. So I would be happy to modify this amendment so that the commissioner could report back to us within a reasonable period of time.

Mr. ROTH. Mr. President, I think I will make a point of order that a quorum is not present and try to reach agreement on the specific language.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I rise today in strong support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act. We have waited too long for the opportunity to debate this issue and move this legislation. Senate action is coming six months after the House overwhelmingly passed this legislation and almost a year after the Kerrey/Portman Commission issued their recommendations for improving and reforming the IRS.

It is no wonder the American taxpayer is frustrated and angry. What kind of penalty or interest would the IRS levy against a taxpayer who was six months late in filing their taxes?

Mr. President, the IRS is an agency out of control. I hear this from people all across my state. They want the IRS reformed. And they want it done now.

What has this six month delay meant to taxpayers? Since November 5, 1997 the date the House voted on H.R. 2676, more than 17 million taxpayers have received a collection notice from the IRS; more than 34 million Americans have contacted the IRS to request assistance or information—of these calls, more than 16 million did not go through and close to 2 million Americans did not get correct answers.

This is unacceptable. Had we acted back in November, the impact on these families would have been dramatically different. We did not need more hearings, we needed action.

Since November 1997 I have heard from close to 1,200 taxpayers from my state who have written in support of systemwide reforms at the IRS. They have told me of their experiences and frustrations—and I have to say, some are quite disturbing.

Mr. President, I want to read some excerpts from a few of these letters—which have come from every corner of my state. They really highlight the abuses taking place by the IRS.

This comes from a constituent in Moses Lake, Washington. She says:

> We are people who obey the law. If there were things on our tax return which were in error or were questionable, we have no problem with being called to account for it. Nor do we take issue with paying more taxes if we legitimately owed more. However, the way we were treated by a representative of the IRS should never be allowed in any country, let alone ours, which is supposed to be based on presumption of innocence.

Another letter comes from a constituent in Seattle:

> In 1993, my husband and I bought a franchise and opened our business as sole proprietors. (If we had incorporated, our suffering would be over now). My husband, Craig, had plenty of knowledge and experience in carpentry and built a strong, thriving closet remodeling business. He did not, however, have business tax and accounting training, and he made mistakes in the paying of taxes and filling our paperwork to the IRS. As soon as he recognized his mistake, he alerted the IRS and began to try to make amends.
>
> It seemed he had awakened a vicious sleeping dog.

He goes on to say:

> Along with everything else, the IRS randomly cleaned out our bank accounts, as well as those of our children.
>
> It seems the IRS has an incentive program for their employees which persuades them to take quick, harsh action, trying to "get what they can" and ask questions of the "customer" later.

Finally, from a constituent in Kirkland, WA:

> For the past seven years both my husband and I have lived our lives under the tormenting cloud of the IRS.
>
> We had a lien put on our home and the letters began to come of companies wanting to help us with our troubles with the IRS. This was so devastating as we were just starting what we thought would be a beautiful life together. One day I came home to 12 different notices from the IRS I needed to sign for at the Post Office. That is a great way to spend taxpayers' money, don't you think?

These heavy-handed tactics by the IRS are not acceptable.

But this is not the first time I have heard from constituents about problems with the IRS. I knew reform was long overdue. It was not until the release of the Kerrey/Portman Commission report that I realized that it was not just a few bureaucrats abusing their position, but rather an agency out of control. An agency with management practices that encouraged abuse of taxpayers; managers who rewarded the most aggressive and unbending employees; and an agency that viewed taxpayers as the enemy.

Why is it so critical to enact IRS reform? We can all name many reasons why reform is necessary and important, but I think we all have to remember that taxpayers are only trying to meet their responsibilities in a democratic society. They are not turning to the IRS to apply for benefits or for assistance. They are attempting to honor their financial obligation and commitment to a democratic and progressive society. They are not asking for anything in return but to be treated fairly.

Unfortunately, this is not the experience of most taxpayers. This frustration with the IRS jeopardizes compliance with the Tax Code and undermines the faith taxpayers have in our system.

Currently, honest taxpayers and businesses pay an average of $1,600 per person for those who do not meet their financial obligations. An estimated $120 billion a year goes uncollected. We do not need to add to this by encouraging more taxpayers to give up.

The great thing about this legislation is that it keeps the taxpayer's interest in mind. It simply levels the playing field between the taxpayer, both large and small, and the IRS. What's more effective than forcing the IRS to work in a more fair and even-handed manner?

I am particularly pleased this legislation provides relief for "innocent spouses" who find themselves liable for taxes, interest, or penalties because of actions by their spouse. This has become a severe problem for many women and children. Following a divorce many women are left to fight the IRS to save their homes and their children's future. Spouses who engaged in illegal activities or misrepresented their income to the IRS simply flee and leave. The IRS then attempts to collect from the innocent spouse—who is often easier to locate—as she has custody of the children. It is a little difficult to hide when you have children.

The IRS then aggressively pursues these innocent spouses for a debt that they never knew about. If only we could be as aggressive in tracking down the billions of dollars in uncollected child support.

I urge the Senate to do the right thing today and pass this legislation. No more delays and no more excuses. The American taxpayer deserves better.

Thank you, Mr. President. I yield the floor.

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

The PRESIDING OFFICER (Mr. GREGG). The clerk will call the roll.

The bill 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. 2343

(Purpose: To provide electronic access to Internal Revenue Service information on the Internet)

Mr. KERREY. Mr. President, I send an amendment to the desk, an amendment offered by Senator LEAHY and Senator ASHCROFT. It has been cleared on both sides. I ask that this amendment be agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from Nebraska [Mr. KERREY], for Mr. LEAHY, for himself and Mr. ASHCROFT, proposes an amendment numbered 2343.

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 262, after line 14, add the following new paragraph:
>
> "In the case of taxable periods beginning after December 31, 1998, the Secretary of the

Treasury or the Secretary's delegate shall establish procedures for all Tax Forms, Instructions, and Publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form."

Mr. LEAHY. Mr. President, I commend Chairman ROTH and Senator MOYNIHAN for their outstanding work on legislation to reform the Internal Revenue Service (IRS). It is time for the IRS to deliver better service to the American people. Our nation's taxpayers deserve no less.

Today, Senator ASHCROFT and I are offering an amendment to H.R. 2676 based on the Taxpayers Internet Assistance Act of 1998, S. 1901. Our bipartisan legislation requires the IRS to provide taxpayers with speedy access to tax forms, publications and other published guidance via the Internet.

Mr. President, I want to praise the Senate Finance Committee, Chairman ROTH, Senator MOYNIHAN, Senator KERREY and Senator GRASSLEY for their leadership in moving the IRS reform legislation to the full Senate. I strongly support the bill approved by the Finance Committee.

As the Senate prepares to debate IRS reforms, we must use technology to make the IRS more effective for all taxpayers. What better way to do that than to require the IRS to maintain online access to the latest tax information. Every citizen in the United States, no matter if he or she lives in a small town or big city, should be able to receive electronically the latest published tax guidance or download the most up-to-date tax form.

The IRS web page at >http://irs.ustreas.gov< provides timely service to taxpayers by increasing electronic access to some tax forms and publications. I commend the IRS for its use of Internet technology to improve its services. More information and services should be offered online and not just as a passing fad. Our legislation is needed to build on this electronic start and lock into the law for today and tomorrow comprehensive online taxpayer services.

For Tax Forms, Instructions and Publications, our legislation provides for online posting of documents created during the most recent five years, the same period of time that the IRS now keeps these documents on CD-ROM for Congressional offices. With these common sense requirements, the IRS will be able to enhance its web page with comprehensive tax guidance in a matter of days at little cost to taxpayers under our bipartisan bill. In fact, the Congressional Budget Office has scored our legislation as adding no new direct spending.

Thomas Jefferson observed that, "Information is the currency of democracy." Let's harness the power of the information age to make the IRS a truly democratic institution, open to all our citizens all the time. We strongly believe that the IRS must prepare itself for the next millennium now.

I thank Senator ASHCROFT for his support and urge my colleagues to support our amendment.

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

The amendment (No. 2343) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2342, AS MODIFIED

Mr. REID. Is the Reid amendment still the pending business?

The PRESIDING OFFICER. The Reid amendment is the pending business.

Mr. REID. I send a modification to the desk.

The PRESIDING OFFICER. The amendment will be modified.

The amendment (No. 2342), as modified, is as follows:

At the end of subtitle H of title III, add the following:

SEC. . STUDY OF PAYMENTS MADE FOR DETECTION OF UNDERPAYMENT AND FRAUD.

Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986 including—

(1) an analysis of the present use of such section and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

Mr. KERREY. Mr. President, this amendment addresses a very important problem that we saw in the oversight hearings that the chairman conducted, and that is sometimes the payment made to induce an individual to provide evidence against a taxpayer who is violating the law becomes an incentive to provide evidence that is faulty and the taxpayers end up being abused as a consequence. Normally, a request for a study would not necessarily go very far. In this case, Commissioner Rossotti has already launched an investigation by the Criminal Investigation Division, using Mr. Webster, former FBI Director, as the lead who has indicated he wants to get to the bottom of this problem as well. So I believe this modification is a good modification. I am prepared to accept it on this side.

Mr. ROTH. Mr. President, we have reviewed the proposed change in this amendment. As I understand it, it requires a study to be made on informant payment, that the study must be completed within a year. As I said earlier, we found there are some serious problems in this area, and the modified amendment is satisfactory to this side.

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

The amendment (No. 2342), as modified, was agreed to.

AMENDMENT NO. 2341

The PRESIDING OFFICER. The question recurs on the BOND amendment with 2 minutes equally divided.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we all know the problems of the IRS. They are well known. This is a troubled agency. It needs to be turned around. This is a good bill, but I think we need to do one thing to make it better. When has a part-time board ever turned around a troubled agency? A part-time board will not do the job. We need a full-time board if they want to change the culture of the agency. A full-time board such as the FTC, the SEC, even the Federal Reserve, can draw the people from all walks of life across the country to make sure the culture of the IRS is changed.

If you want to do something about the IRS, you have to put into the field a big dog that can back up his bark. Otherwise you have a little puppy on the porch that is meowing with the cats. It is not going to change the IRS to put a toothless puppy in as an advisory board. I believe a full-time board can give us the strength we need for vital reform. I ask for support of my amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I was concerned as to where that animal analogy was going to go. Again, I appreciate very much what the Senator from Missouri is trying to do. I think the intent is shared both by myself and the chairman of the committee. We believe very strongly that this amendment would actually reduce the President's ability to find qualified people to come and bring their considerable expertise to assist the Commissioner who will be granted new authority to manage the Internal Revenue Service to restructure and improve customer service, improve the use of technology, and increase the satisfaction that customers of the IRS get.

So although it is well intended—I actually started out where the Senator from Missouri is—I believe it will make it more difficult for us to get the kind of people the Commissioner needs to serve on this board.

The PRESIDING OFFICER. The question is on agreeing to the Bond amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA) is absent due to a death in the family.

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

The result was announced—yeas 25, nays 74, as follows:

{Rollcall Vote No. 121 Leg.}

YEAS—25

Abraham	Faircloth	McConnell
Ashcroft	Frist	Nickles
Bond	Gramm	Shelby
Burns	Hollings	Smith (NH)
Campbell	Hutchinson	Stevens
Coverdell	Inhofe	Thomas
Craig	Kempthorne	Thurmond
D'Amato	Kyl	
DeWine	McCain	

NAYS—74

Allard	Ford	Lugar
Baucus	Glenn	Mack
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Grams	Moynihan
Boxer	Grassley	Murkowski
Breaux	Gregg	Murray
Brownback	Hagel	Reed
Bryan	Harkin	Reid
Bumpers	Hatch	Robb
Byrd	Helms	Roberts
Chafee	Hutchison	Rockefeller
Cleland	Inouye	Roth
Coats	Jeffords	Santorum
Cochran	Johnson	Sarbanes
Collins	Kennedy	Sessions
Conrad	Kerrey	Smith (OR)
Daschle	Kerry	Snowe
Dodd	Kohl	Specter
Domenici	Landrieu	Thompson
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Warner
Enzi	Levin	Wellstone
Feingold	Lieberman	Wyden
Feinstein	Lott	

NOT VOTING—1

Akaka

The amendment (No. 2341) was rejected.

Mr. ROTH. I move to reconsider the vote.

Mr. KERREY. 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 (Mr. BURNS). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I know there are a number of Members who wish to speak, so I will keep my comments brief. But first I want to congratulate the chairman of the committee, Chairman ROTH, for bringing forward this really excellent bill to try to address what have been some extraordinary abuses which have been testified to before his committee and testified to in other arenas.

In my own case, I held a meeting in New Hampshire—a number of meetings, and found that we have had over 75 cases involving complaints involving the Internal Revenue Service since I have been in the Senate, which is an extremely high percentage.

We held a number of meetings. In one of the meetings, we had a presentation that was really disturbing—two presentations, in fact. The first was a fellow who practiced tax law and tax preparation for over 27 years who brought in a memo, an actual memo that he had taken off the desk of an agent. And the memo stated very bluntly that the IRS agents in that arena, in that area, were to collect a specific amount of dollars. Not only were they to collect a specific amount of dollars, but they were to collect a specific amount of dollars every month. In fact, it went further. It said how much they were supposed to collect every day, almost down to every hour—how much money the agents in that area were supposed to collect. It was not collection on the basis of people who legitimately owed taxes; it was collection on the basis of a quota system. It was outrageous that such a memo should exist or such direction should occur with this agency.

The second instance, which was even more disturbing because it led to a death, involved a fairly well known case now in New Hampshire of Mrs. Barron and Mr. Barron. Mrs. Barron's husband was essentially driven to suicide as a result of the abusive and totally inappropriate tactics that the Service, and a specific member of the Service, used in pursuing Mr. Barron for collection of taxes that were owed.

It was so terrible and so outrageous that it did lead to Mr. Barron's death and has disrupted and destroyed really Mrs. Barron and her family. As of today—in fact, I believe it will be announced today—Mrs. Barron has now finally received, after 5 or 6 years, some slight recompensation from the Internal Revenue Service in that they have dropped all action against her and against her husband's estate, and stated that they will no longer pursue the liability which they originally alleged was due and which drove this family into such despair. The manner of the collection was just horrific. The way in which they proceeded was horrific.

Of course, we have seen testimony before the Senate committee on which Chairman ROTH has been holding hearings which reflected agents coming into slumber parties and forcing young children to get dressed in front of them, at gunpoint essentially, and throwing a household into chaos in that manner.

Even a former majority leader of this Senate, Senator Baker, was subject to what amounted to extortion as a result of the activities of what I think was then a rogue agent pursuing Senator Baker.

The instances go on and on. And almost every Member of this Senate, I suspect, has cases in their home State of abuse, of action taken by specific agents which went beyond anything which we in a democracy should tolerate.

Thus, this bill is absolutely appropriate because this bill puts the taxpayer back on a level playing field. Instead of treating the taxpayers as if they are guilty until proven innocent—just the exact opposite of the way our culture proceeds—this bill puts the burden back on the Internal Revenue Service, where the taxpayer can present a reasonable case.

In addition, this bill says to the spouse, who is just a bystander, that they will not end up being treated unfairly or abused as a result of the misdeeds of their husband. And in most instances where the spouse simply signs the return, the innocent spouse language in this bill is very, very appropriate. And the chance to recover from the IRS for damages which are caused as a result of excessive activity on the part of agents who may act outside the reasonable course of collection of taxes is also very appropriate in this bill.

So this is truly a strong bill. It is dedicated to the purpose of trying to rein in the Internal Revenue Service management activities and make the Internal Revenue Service a more responsible agency as it deals with our citizenry. Because the bottom line, quite honestly, in our tax collection service, in our tax collection system as a democracy, is that people have to have confidence; they have to have confidence in the system. They have to have confidence that when they pay their taxes, they are paying, No. 1, their fair share and, No. 2, they are going to get fair treatment in the manner in which their taxes are reviewed. And as people lose that confidence, we will lose compliance.

What we have seen basically is that people have lost their confidence in the manner in which the Internal Revenue Service pursues the collection of taxes in this country. This bill will hopefully move a large step down the road towards reestablishing faith in the collection process that we pursue in this Nation for our tax obligations.

It does not get to the underlying problem, of course, which is that the tax laws have become far too complex, far too intricate, have gotten to a point of legal mumbo jumbo that very few people can understand what the tax laws actually say or can even comply with them without the assistance of professionals. That issue we also need to address as a Congress.

We need to simplify, make fairer, make flatter our tax system; make it a more comprehensible and understandable tax system. Pending doing that, which I hope we will do in the next year or so, this bill is a major stride forward in giving the taxpayers fairer and better treatment under the Internal Revenue Service procedures and allowing taxpayers to be treated like citizens of a democracy rather than citizens of a police state.

Mr. President, I yield back such time as I may have.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I ask Senator ALLARD, do you want to proceed with your comments?

Mr. ALLARD. Thank you, Mr. Chairman.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I rise in support of H.R. 2676.

Mr. President, I also want to talk about reform of the Internal Revenue Service. The Senate Finance Committee examined this issue last year, and they recently conducted a careful reexamination. I commend my colleagues, particularly the chairman of the Finance Committee, for their vigilance on this issue.

They have worked very hard to identify problems with the Internal Revenue Service and to craft legislation to correct the problems that were pointed out during committee hearings.

As we saw in the hearings last fall, the IRS has lacked accountability for years. The most recent hearings remind us of the importance of reforming this institution.

No one can dispute the fact that we must end business as usual at the IRS.

We must bring accountability and integrity back to the IRS.

American citizens should not live in fear of their government.

Certainly most IRS employees work diligently and honestly to insure that they administer the nation's tax laws accurately and fairly.

But as we have seen, the IRS as an institution has fostered a culture that tolerates and at times even encourages those few who operate outside the law.

We desperately need reforms to bring to justice those agents and elements within the IRS that have so far flauted the law.

The best way to curtail the power of the IRS is to simplify our nation's tax laws.

Congress is the principal entity responsible for the tax code.

Frankly, I believe Congress should scrap the current tax system and start fresh with a simple and fair system.

The federal tax burden on hard working Americans is excessive and overly intrusive, and reform is long overdue.

By striking at the heart of the problem with a fairer, flatter tax system, Congress will put an end to abusive IRS practices.

Until Congress is able to pass substantive changes to the nation's tax system that the President is willing to sign, we must reform the IRS.

Senator ROTH's bill would create an independent oversight board that would redefine IRS accountability.

The board would provide desperately needed oversight of the management and operation of the IRS, as well as its enforcement and collection activities.

Taxpayers have a right to expect honesty and integrity in their dealings with the IRS.

In fact, the mission statement of the IRS calls on its employees to perform in a manner warranting the highest degree of public confidence in their integrity, efficiency, and fairness. Let me repeat that. The mission statement of the IRS calls on its employees to perform in a manner warranting the highest degree of public confidence in their integrity, efficiency, and fairness.

When this fundamental trust is breached, taxpayers must have adequate recourse.

The Senate IRS reform bill gives them the necessary recourse.

Taxpayers would have expanded ability to collect damages and expenses when they are the target of improper IRS actions.

Also, agents who take improper actions, such as improper seizures we have heard on this floor, false statements under oath, which was heard in the committee, falsifying documents, we heard those before, violation of taxpayer confidentiality, and even harassing a taxpayer, would be terminated under the Senate bill.

While it is important to make whole those who have been injured by the IRS, it is even more important to prevent abuses from ever happening.

Senator ROTH's bill would provide this important protection for taxpayers.

Innocent spouses could no longer be held liable for the tax debts of their spouse, and spousal liability would be limited on joint returns.

Thanks to this bill, taxpayers will finally receive due process in their dealings with the IRS, which I think is a significant part of this bill.

IRS agents would have to follow specific procedures before seizing assets or filing liens, and they would be prevented from seizing someone's home for a minor tax liability.

The IRS would also be subject to the same Fair Debt collection standards that all other bill collectors in America are required to follow.

This year I have met with citizens in all 63 counties of Colorado.

In many of those meetings I had, I constantly heard about how frustrating and intimidating it can be to deal with the IRS. The Senate IRS reform bill would make it easier for citizens to communicate with the IRS.

The bill would require all IRS notices and correspondence to include the name, phone number, and address of an IRS employee that the taxpayer should contact regarding the notice.

It would also be easier to contact the IRS with general questions since they would finally be required to publish local phone numbers and addresses in the phone book.

Unfortunately a few agents have elected to use the IRS as their personal weapon, but the abuse of taxpayers must stop.

The IRS must recommit itself to serving the taxpayers.

The Senate IRS reform bill is a significant step towards that goal.

According to Judge William Downes,

> The conduct of our Nation's affairs always demands that public servants discharge their duties under the Constitution and the laws of this Republic with fairness and a proper spirit of subservience to the people whom they are sworn to serve. Respect for the law can only be fostered if citizens believe that those responsible for implementing and enforcing the law are themselves acting in conformity with the law.

I conclude by saying Congress must pass this legislation to end abusive practices and restore American confidence in the IRS.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2344

(Purpose: To examine the transfer pricing enforcement efforts of the Internal Revenue Service)

Mr. DORGAN. Mr. President, I rise to offer an amendment on behalf of myself and Senator REID from Nevada. I believe the amendment has been worked out.

Let me describe it briefly. As I describe this amendment, let me say that the issue that is addressed in this bill dealing with the behavior of the Internal Revenue Service is an important issue. Stories with respect to hearings that have been held here in recent months, stories of abuse and taxpayer harassment, are stories that reflect horrible mismanagement, in my judgment, at the Internal Revenue Service.

This bill serves notice that that kind of behavior will not ever be tolerated at the Internal Revenue Service. This piece of legislation gives taxpayers some muscle to fight back when and if this occurs, and this piece of legislation makes some management changes at the Internal Revenue Service, some structural changes, to make sure the mismanagement does not occur again.

Now, there is another issue, however, that is important and this issue has not been the subject of hearings. That is the issue of enforcement. You must have a tax system to collect the money to do the things we need to do as a country—provide for our common defense, to pay for roads, to pay for health research, to pay for food safety, to pay for environment protection. So who pays those taxes? What kind of agency collects them and who pays the taxes?

We want to make sure our tax laws are enforced sufficiently so that some of the largest economic interests are not getting by paying zero taxes while the working families, who get out, go to work and work all day, and have a salary or a wage and have withholding taken out of their check, pay their taxes because they have no choice and no flexibility.

A recent study done by the GAO says foreign-controlled corporations doing business in the United States and not paying taxes equal 73 percent of all foreign corporations doing business here. Let me say that another way. If you think of the brand names of foreign products that you purchase in this country, just the most common brand names of companies who sell billions of dollars' worth of products in this country, and make billions of dollars in net income in this country, you can be sure that some of those names you just thought of are part of this 73 percent who do business here, make money here, and pay no taxes here—none, none at all. Seventy-three percent of foreign-controlled corporations doing business in the United States pay zero in Federal income taxes.

Now when they come here and compete against a U.S. corporation that does business only here and must pay taxes only here, they are engaged in unfair competition because they do business here tax free while our domestic business pays a tax to our country. This deals with tax enforcement.

The reason I offer this amendment is I want to just describe in a moment how tax avoidance occurs in this area and why it is important to have an Internal Revenue Service that is making sure these corporations pay their fair share of taxes in this country as well.

There have been a number of studies—a GAO study, a Treasury study, an IRS study, a study by two professors from Florida, Pak and Zdanowicz. Let me show Members what these studies have told us. Corporations, in this case foreign corporations doing business in this country, can simply inflate the cost of what they are selling to their U.S. subsidiary that they wholly own, and when they inflate the cost of the product they are selling to their wholly owned subsidiary, their subsidiary in the United States ends up doing a lot of business but ends up paying no taxes because they say they made no profits.

Let me give you an example of pricing. Tweezers. A pair of tweezers for $218. You have been to a drugstore or a grocery store and bought tweezers. Did you pay that for tweezers? I don't think so. Tweezers are priced at $218 so that a foreign corporation can overcharge to the domestic subsidiary and, therefore, take all the profit out of that subsidiary and claim they made no profit in the United States.

How about safety pins for $29 each? That is $29 for a safety pin. That is another way to price your profit out of the United States and show no income and pay no taxes to the United States.

How about a toothbrush imported into the United States from France for $18 apiece? Has anybody here bought a toothbrush for $18 apiece lately?

There is another way to do this, by the way, which is that corporations can have a foreign subsidiary in another country and they underprice their export to that foreign subsidiary, and that tends to move profits away from the United States as well.

Let me tell you what they do there. How about a piano, selling a piano to a company in Brazil for $50? Or what about tractor tires, selling a tractor tire to France for $7.69? Do you think U.S. farmers are able to buy a tractor tire for $7.69? How about a bulldozer for $551? You all know what a bulldozer looks like. Do you think you can buy that for $551? How about a missile-rocket launcher for $58? That is the way you move income around and end up not paying income tax to the United States of America, when all the rest of the taxpayers here pay the tax.

My point is very simple. How do you enforce what is called arms-length transactions between related corporations? Well, you take all their transactions and try to put them back together and measure whether they are priced in a way that would represent fair market prices. That is like taking two plates of spaghetti and trying to attach the ends of the spaghetti. It cannot be done. The result is billions and billions and billions of dollars—some estimates are over $40 billion a year—are lost to the U.S. Treasury through massive tax avoidance, while we are worried about whether people who go to work every day pay their taxes—and they do pay them because they don't have any flexibility; they can't get out of it and they can't overprice tweezers to $18 and tractor tires to $7.60. They pay their tax.

I want the IRS to worry about enforcement of our tax laws with respect to those who are doing business here to the tune of tens of billions of dollars, earning income here to the tune of tens of billions of dollars, and paying zero to this country in taxes. American firms that do business here must pay taxes; so too should foreign companies.

The amendment I offered is very simple. It simply requires the Internal Revenue Service Oversight Board that we are creating to conduct a study of whether the IRS has the resources needed to prevent the tax avoidance by these companies. In other words, do they have the resources to enforce in this area, No. 1; and No. 2, to analyze how much we are losing in this area of tax avoidance.

It is, in my judgment, scandalous. I refer anybody who is interested to the study by Pak and Zdanowicz, released not long ago. They are two Florida doctors who say that the U.S. Government was cheated out of $42.6 billion in tax revenues in 1997. That is a huge area.

I heard all this discussion on the floor about the IRS targeting low-income folks. That represents a different sort of enforcement. That deals with the earned-income tax credit. That is why that is happening. What about targeting the folks doing business here and not paying taxes here, who are earning billions of dollars every year in the United States in profits and using price transfers to price their income out of this country and shield it from the U.S. taxpayer? Shouldn't they have to pay income tax on their profit as well?

My amendment requires the oversight board to do certain things and report back to Congress within a year. I hope that perhaps this will stimulate some activity to take a look at this area and to see if we can't get the taxes that are owed this country by foreign corporations doing business in this country, making a great deal of money and paying nothing—literally zero—in Federal income taxes. My understanding is that this amendment has been cleared on both sides and, if so, I would only need a voice vote.

Mr. KERREY. Mr. President, we are prepared to accept this amendment. It requires a study to be done. I think it is a very important amendment. I appreciate the Senator bringing it onto this bill and bringing it to our attention. There is a problem with noncompliance; it is a big problem. Indeed, there is a problem in the IRS with noncompliant taxpayers, and Americans believe a problem with the IRS is that people who are complying are being harassed by the IRS. We have spent a lot of time, as is appropriate, dealing with the second category. I appreciate what the Senator is asking for very much.

Mr. ROTH. Mr. President, likewise, I am willing to accept the amendment of the Senator from North Dakota.

The PRESIDING OFFICER (Mr. HUTCHINSON). Will the Senator call up his amendment?

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. REID, proposes an amendment numbered 2344.

Mr. DORGAN. 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 394, between lines 15 and 16, insert:

SEC. 3803. STUDY OF TRANSFER PRICING ENFORCEMENT.

(1) IN GENERAL.—The Internal Revenue Service Oversight Board shall study whether the Internal Revenue Service has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods.

(2) ASSISTANCE.—The Internal Revenue Service shall assist the Board in its study by analyzing and reporting to the Board on its enforcement of transfer pricing abuses, including a review of the effectiveness of the current enforcement tools used by the Internal Revenue Service to ensure compliance

under section 482 of the Internal Revenue Code of 1986 and to determine the scope of nonpayment of United States taxes by reason of such abuses.

(3) REPORT.—The Board shall report to Congress, not later than 12 months after the date of enactment of this act, on the results of the study conducted under this subsection, including recommendations for improving the Internal Revenue Service's enforcement tools to ensure that multinational companies doing business in the United States pay their fair share of United States taxes.

Mr. DORGAN. Mr. President, I urge adoption of my amendment.

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

The amendment (No. 2344) was agreed to.

Mr. REED. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERREY. I wonder if the Senator would specify an amount of time. Senator GRAHAM of Florida is going to offer an amendment, and we would like to keep moving on the bill. Do you have a period of time in mind?

Mr. REED. I will finish within 10 minutes, or maybe much less.

Mr. KERREY. Fifteen minutes is fine with me.

Mr. REED. Mr. President, it will be way under that.

MANAGED CARE

Mr. REED. Mr. President, today we are engaged in a very important debate about the reform of the IRS, but there is another very crucial debate that we also must consider and recognize, and that is the debate about the future of our health care system in the United States—particularly the managed care health care system, which is becoming so prominent in America today.

I am particularly concerned that children should also be part of this debate and that they deserve the same consumer protections that many have talked about in the context of adult health care plans. Managed care, as we all recognize, plays a very important and critical role in our health care delivery system and has provided many benefits. But we also hear repeatedly about instances in which patients—particularly children—are not served as well as they should be by managed care.

I recall one child who was brought to my attention in Rhode Island. A young child, Morgan Smith, was born in Rhode Island November of 1993. Shortly after her fourth birthday, Morgan was diagnosed with Rhabdomyosarcoma, a cancer that attacks any smooth muscle in the body, including blood vessels. They detected this cancer in Morgan's brain. She was indeed faced with a critical, life-threatening brain tumor.

We are fortunate in Rhode Island because we have an excellent children's hospital, Hasbro Children's Hospital in Providence, which is the hospital where Morgan was diagnosed. The pediatric oncologists there determined that the best treatment for Morgan would be to go to the New England Regional Medical Center in Boston for specialized chemotherapy. Now, her mother, obviously, was willing to do anything to treat her child and have the best benefits for her child.

At that point, the insurance company denied her the ability to bring her child to Boston and requested that they get a second opinion. They got that second opinion; it was the same as the first opinion. However, the HMO still refused to authorize the treatment necessary for that 4-year-old child to receive life-saving therapy in Boston.

Mrs. Smith literally had to wage war against the HMO to make her point. At the time, she was absolutely crushed by the prospect of her young child being stricken with a life-threatening brain tumor. She determined on her own to go to Boston regardless of the consequences, risking her financial future, risking all of the resources that she had, while also having to provide for her other children. Nevertheless, she was bound and determined to provide for Morgan.

Fortunately, this story has a happy ending. About a month after pleading by Mrs. Smith, and by others, the insurance company relented and she was granted permission to have the treatment conducted in Boston. And the child is doing very well.

That is merely one example of the stories we are hearing constantly about managed care and its inability at times to provide the kind of care that most parents think they should get when they pay good money, or their employer pays good money, for these managed care plans.

There have been studies in parts of the country suggesting that the managed care plans are not best suited, in many cases, for children. A study in California by Elizabeth Jameson at the University of California compared managed care plans with the State's Medicaid plan for children. Medicaid plans are sometimes stereotyped as the low-cost and, by inference, low-quality health care. This study, however, found that in many respects children in California's Medicaid Program were getting better pediatric care than those enrolled in managed care plans in the State.

The study found, for example, that some of the managed care plans imposed restrictions on referrals to pediatric specialists. They also found that many plan providers were attempting to deal with very complicated pediatric conditions with which they had little experience.

As a result of the anecdotal evidence, as a result of the statistical studies and surveys that have been done in parts of the country, I have introduced S. 1808, the Children's Health Insurance Accountability Act. It is designed to provide an opportunity for children's health to be considered and focused on in a managed care plan. This act would provide common sense protections for children in managed care plans—protections, for example, that would ensure that a family has access to necessary pediatric services; that they would have appeal rights and special conditions with respect to children; that they would have quality programs that measure outcomes with respect to children and not just to adults; that there would be utilization review rules that be geared toward children and not just to adults; that there would be child-specific information in terms of the sale of these plans on care provided to children.

There are so many parents who buy plans and think they have coverage for their kid, only to discover in a time of crisis that the coverage is not what they thought it was. My legislation would put that information up front.

What I have done with respect to children is consistent with a much broader class of legislation that is attempting to reform managed care for the entire population of patients. The Health Care Bill of Rights, for example, introduced by my Democratic colleagues, is one such plan. My legislation is consistent with this overall thrust to ensure that managed care continues to operate for the benefit of patients, that operates by allowing physicians to provide advice, and not accountants, to control the diagnosis and the application of health care.

With respect to children, again, the American people are strongly supportive of proposals to give better access through managed care for pediatric services. In a February 1998 poll by the firm of Lake, Sosin, Snell, Perry and Associates and the Tarrance Group—two pollsters, one Democrat and one Republican—it was found that 89 percent of adults surveyed favored having "Congress require HMOs and other insurance companies to allow parents to choose a pediatrician as their child's primary care physician." And 90 percent favored having "Congress require HMOs and other insurance companies to allow parents of children with special care needs, like cerebral palsy, cystic fibrosis, or severe asthma, to choose a pediatric specialist to be their child's primary care physician."

There is overwhelming public support for these provisions that will allow parents to truly and wisely choose coverage for their children and have the ability to have pediatric specialists care for their children.

Again, this is consistent with a theme, a message, and a responsibility that we all have; that is, to move in

this time decisively, with determination, to ensure that we reform the managed care system, that we provide the benefits of managed care in terms of preventive services; in terms of access to physicians, that we do it in a way that physicians know they are providing the best care for their patients and that the consumers of health care know that they can have access to good-quality care.

The time to act is now. I join many of my colleagues on an almost daily basis in urging that we take up this matter quickly and that we move forward decisively and pass comprehensive managed care for all of our citizens, but particularly for our children.

I thank you, Mr. President. I yield my time.

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

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

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2347

(Purpose: To require 1 member of the Internal Revenue Service Oversight Board to be a representative of small business)

Mr. GRAHAM. Mr. President, I rise for the purpose of offering an amendment on behalf of myself and Senator BOND.

Yesterday, I spoke at some length about the issue of small business and the Internal Revenue Service. In that statement I pointed out that small business is a peculiarly affected part of the American economy as it relates to the Internal Revenue Service.

Small business, as we know, is the fastest growing sector of our economy. Typically, management has multiple responsibilities and does not have the kind of access to a panoply of expertise in accounting and law as a larger business would have. Oftentimes the small businessperson and those associated with the small business are in their own learning curve as to what requirements of compliance might be.

Therefore, it is my feeling as we look at this reform of the IRS that we should pay some special attention to how this will evolve in terms of its application to small businesses. As we know, one of the principal elements of this reform is the establishment of an IRS Oversight Board. This oversight board has the responsibility of being both the window of the Government onto the taxpayer, and the taxpayer back to the Government. So it serves an especially important role of understanding and communication.

The legislation is written so that three of the members of the nine-member oversight board are ex officio—the Secretary of the Treasury, the IRS Commissioner, and a representative of IRS employees. The other six appointees are Presidential appointments, and according to the current draft of the legislation these six appointees must possess expertise in the following areas: management of large service organizations, customer service, Federal tax laws, information technology, organization development, and needs and concerns of taxpayers.

The amendment that I am offering will add an additional category of expertise to be represented among the six Presidential appointees and that is the needs and concerns of small business. It is the expectation that the President would appoint six individuals, and his responsibility would be to assure that those six had a sufficient range of backgrounds that they would be able to cover the six and, if this amendment is added, the seventh requirement.

I think it is extremely important that among the six people who are appointed as Presidential appointees to the oversight board for the Internal Revenue Service there be represented in that six one or more individuals who understand the needs and concerns of small businesses of America and can assure that those concerns are effectively communicated to the management and administration of the Internal Revenue Service and, if necessary, the Congress, for appropriate changes in law.

The distinguished chairman of the Small Business Committee, Senator BOND, joins me in this effort. I want to commend him for his thorough analysis of the IRS bill as it affects small business and for including this provision in his legislation.

So, Mr. President, I send to the desk an amendment which would add to the requirements for those persons who are serving on the IRS Oversight Board that there be included expertise in the needs and concerns of small business.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2347:

On page 176, between lines 4 and 5, insert the following:

"(vii) The needs and concerns of small businesses.

Mr. GRAHAM. I thank the Chair.

I ask for immediate consideration of this amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nebraska.

Mr. KERREY. Mr. President, we would be prepared on this side to accept what I consider to be a very, very good amendment. The idea of this board is to give the President authority to select from a wide range of experiences that will assist the Commissioner of the Internal Revenue Service in managing the agency, and the Commissioner has already indicated—indeed, we are going to help him follow through—his preference to manage the IRS much differently than it currently is.

The IRS is currently managed using a three-tiered system that we adopted in 1952. There are regional and district offices, multiple offices, and you have all different kinds of taxpayer needs taken care of in each one of these district offices.

What the Commissioner has indicated he wants to do is reorganize along functional lines. Function No. 1 is large business of which I believe there are 7- or 800,000, individual taxpayers would be function No. 2, small business No. 3, and nonprofits No. 4.

So what the Commissioner is already attempting to do, and this law would direct him, is to entirely or completely eliminate the three tiers in favor of this kind of functional organization. But what he is already recognizing is that taxpayer needs vary not according to their geography but according to the category of the taxpayer. One of the largest and most important categories of radically different needs than the other three is small business.

So what the Senator from Florida is doing is adding to the list of requirements the President would have to consider when making a selection, and that would be some small business experience which reinforces very much the other section of this bill, which directs the Commissioner to eliminate, as much as possible, the three-tier system in favor of this functional system of organization.

So I think it is a very good amendment. It is one of these amendments that just has a few words in it. There is a lot more to this amendment than meets the eye. I think with the addition of a small business experience, this board is much more likely to be able to carry out its function, and that is to provide the kind of consistent oversight and advice the Commissioner needs to manage this very important agency.

Mr. ROTH. Mr. President, I think we are all in agreement as to the importance of small business. Certainly, the current success of our economy has depended in large part on the contribution of small business. For that reason, from this side I agree that we should accept the amendment, and so do.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2347) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Montana.

Mr. BAUCUS. Mr. President, during the last couple of months, in every household across the country, Americans went through an annual rite. They sat down at the kitchen table, pulled all their financial records together, and figured out what they owed the Government in taxes.

Nobody likes doing their taxes. And people dislike paying them even more. Yet the vast majority of our citizens do pay their taxes. And they pay them honestly.

In short, Americans expect their money to be used to pay for all of the things that help make this nation great. In return, though, the American people want their Government to do two things.

First, the American people want their Government to treat them with respect and dignity as the revenue is being collected. They expect to have their privacy respected, and to be treated fairly.

Second, Americans expect that everyone else who enjoys the benefits taxes pay for will shoulder their share of the burden. That their neighbor down the street isn't hiding part of his income, and thus avoiding paying his fair share of the tax. That everyone is filing returns, and that the amounts claimed on those returns are accurate and true.

Mr. President, I truly believe the American people have the right to have both of these expectations met. And I believe we here in the Senate shoulder a great deal of the responsibility for making sure of it.

Chief Justice John Marshall said: "The power to tax involves the power to destroy." It is our duty as Senators to make sure this country does not use its power in that fashion.

Running the IRS is a study in careful balances. And I believe that the IRS has somehow lost its ability to maintain one side of the equation over the years.

Many tax collectors, in their zeal to catch those among us who don't pay their taxes, seem to have lost sight of the most important truth about our tax system—that citizens have rights that must be protected.

Anything less undermines our ability to make a system of voluntary taxation work.

Here's a graphic example of how the system has gotten out of whack. It's contained in a recent letter from one of my constituents. It's a plea for help:

The problem with the IRS started in 1997. John [not his real name] and I had just bought a house. I was a semester away from graduating from college, and we thought the [failed] business was behind us. The last week in July 1997, I returned home after a day of working at my part-time job to find a nasty note on my front door from [an IRS agent] stating that he had 'tracked' us down and expected a phone call or action would be taken. I promptly called him to find out the reasoning behind the note. He was very rude and reluctant to give me any information, because I [was not my husband]. I explained that I was his wife and he began talking to me in a degrading manner. He said, "Your husband owes tax, and I expect to collect it in full." When I asked him to explain, he very quickly said it was for [my husband's failed business] and began treating me as a criminal who was running from the IRS.

We feel we have not been treated fairly in this situation. We have attempted to make good on all other situations regarding this [failed] business and have not been hiding from the IRS. [The IRS agent] has been extremely rude and unsympathetic toward us. He has put a tax lien on everything we own. He has also made comments to our accountant indicating that he has been tracking our personal lives and mentioning purchases and other personal matters. In [the IRS agent's] eyes we are criminals cheating the government. In our eyes the government is cheating us by never giving us a fair chance to make good. This whole situation has cost us over $700 in accounting fees and is still unresolved. We are turning to you as a final attempt to resolve this problem. We hope you can help us in making the government work for the people not against them.

That letter sums up this issue in a nutshell: Make the Government work for the people, not against them. Make Government responsive to taxpayers' needs. Make service the priority of the Internal Revenue Service. Make the IRS treat taxpayers fairly—and with respect. That's what my constituent wants. And that's what I want.

We certainly don't want to tie IRS's hands so much that tax cheats are encouraged. The rest of us end up picking up the tab when someone cheats. At the same time, we also can't have IRS harassing innocent citizens, assuming everyone is guilty the minute they walk in the door.

I believe this legislation will help IRS find its way back to the reasonable balance that our tax system requires.

The IRS has suffered from years of neglect and lack of focus. The spotlight that has been turned on the Service, by the IRS Restructuring Commission and by the series of hearings we have held in the Senate Finance Committee, has already had a positive effect on the IRS.

The Service is expanding hours and people for its telephone answering service. Taxpayers got 13 million fewer busy signals this year when they called IRS to ask questions about their taxes. Toll-free calls are being answered 91% of the time—a huge improvement. Last year callers only got through 66% of the time, and only 39% of the time the year before. This year, phone lines are being answered 18 hours a day. And for the first time, the IRS is open on Saturdays.

People answering the phones are also getting better. One group of Baltimore IRS workers gave correct advice to 100% of recent random test calls. Nationally, accuracy scores are up to 93% this year, from only 63% as recently as 1989.

So more taxpayers are able to get through to the IRS when they have a question, and more of the answers they will get will be the right ones.

IRS has a webpage where taxpayers can download documents and forms. Now taxpayers don't have to run all over town just to find the right paperwork.

And the Service has had a series of "Problemsolving Days" around the country, where taxpayers can come in and get their problems taken care of. The last "Problemsolving Day" in my home state of Montana was in Billings in January. More than half of all the taxpayers who participated walked out with their problems taken care of on the spot. Many of the rest have been resolved in the succeeding weeks.

But there are still problems at the IRS, as our hearings—and my constituent's letter and plea for help—have clearly identified. And many of the improvements planned by our new IRS Commissioner, Charles Rossotti, require legislative action in order to go forward.

The bill before us is a very good beginning. It addresses the first expectation the American people share—making sure the Government treats them with respect and dignity as the revenue is being collected. It does this through a series of provisions.

First, the bill creates a board, made up chiefly of private citizens, to oversee the direction the IRS is going. The Board will keep an eye on the Service's budget, to make sure enough resources are being dedicated to customer service. It will help define long-term goals, and make sure the Service stays on track to meet those goals. The Board will ferret out problems at the IRS, and help craft solutions to those problems.

The bill creates significant new personnel flexibilities to make it easier for Commissioner Rossotti to get his own team on board and reward employees who are doing well. It requires the IRS to submit an employee training plan to Congress, to help employees improve the quality of their work. The bill requires IRS to tell Congress about taxpayer complaints of misconduct by employees, and to take disciplinary action against "bad apples". The bill also makes it easier for IRS employees to provide confidential information to the Finance and Ways and Means Committees to report allegations of employee misconduct or taxpayer abuse.

The bill will reorganize the IRS, much as IBM was reorganized when they realized they couldn't compete against newcomers like Microsoft. Right now, IRS is organized horizontally, by function. This means

every time a taxpayer has a question or a problem that crosses the Services' functional lines, they are handed off to a different person in an entirely different department. No one has final responsibility to getting the taxpayer's problem solved.

There is no accountability.

This bill reorganizes the agency by type of taxpayer. There will be a separate division for individuals, one for small businesses, one for large corporations, and one for tax exempt organizations. Employees within these divisions will be responsible for just about every type of problem their assigned group of taxpayers could have. They will stick with the taxpayer until his problem is solved.

No more passing the buck.

The bill also adds important new taxpayer protections to the law, to help protect citizens against arbitrary actions of IRS agents.

The bill will allow taxpayers to sue for negligent actions by IRS agents. Today they must meet a very high treshold by proving any abuse was intentional.

The bill expands the offers-in-compromise program. It makes it harder for IRS to turn down legitimate offers. The bill also requires IRS to leave taxpayers with more money to live on when they enter into repayment agreements.

In our hearings, taxpayers complained about the difficulty of using innocent spouse protections. The House and Senate bills take different approaches to solving this problem. Both make it easier for truly innocent spouses to be protected from the tax debts their guilty spouses have accumulated.

These are only a few examples of the taxpayer protections built into the legislation.

Finally, the bill before us today takes a first step toward addressing what may be the biggest contributor to taxpayer problems with our Tax Code—Congress itself. Witness after witness at our hearings complained about the complexity of the Code. Witness after witness complained about how hard it is to keep up with frequent changes we make in the law. And they are right.

This bill requires that every tax bill in the future be accompanied by an analysis of whether it will further complicate the Code. How hard it will be for taxpayers to comply with the new law. As we strive to achieve fairness in our Tax Code, we sacrifice simplicity. With this bill, we will be able to clearly understand the extent of that sacrifice.

I believe that one of the hardest things to do when restructuring any agency, and particularly one as sensitive as this one, is to find that delicate balance between giving the Government too much power and giving it too little.

Give it too much power, and innocent citizens will be abused. This is, obviously, unacceptable in a civilized society. Even one single instance of taxpayer abuse is one too many.

Law abiding taxpayers should not fear the taxman.

But clipping the Government's wings too closely presents its own dangers. Americans expect us to make sure everyone is sharing the burden of paying for the services our Government provides. And it is clear some of us are not. IRS estimates the "tax gap", which is the measure of tax avoidance, now is almost $200 billion a year. This amounts to more than $1,600 per year for every tax return filed by the rest of us.

This, too, must stop. Our entire system of collecting revenue would unravel if taxpayers stop paying their fair share because they believe everyone else is cheating.

The bill before us today is not perfect.

It does not address the problem of tax non-compliance. We have left that challenge for another day.

There are provisions in it that may seem good at first blush, but may cause more harm than good. We should try to fix these as the bill goes through the legislative process.

But I firmly believe we must not let the perfect be the enemy of the good. We must not let yet another tax season go by without the taxpayer protections this bill provides.

Passing a solid restructuring bill will do more to get the IRS on track than a hundred hearings where we sit, posture, pontificate and play politics.

It is our responsibility to the American people to get this job done quickly, and to get it done right. I want to be able to go back to the constituent who wrote me that letter and say, Yes, we fixed your problem. And, Yes, the Government works for you, not against you.

Thank you, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise today to speak briefly about IRS reform and overall reform of the tax system.

Paramilitary-style raids, attempted frame-ups, retaliation against whistle blowers, harassment of innocent individuals, all carried out by a Government agency oftentimes operating outside the bounds of the law and with seemingly limitless authority. A premise played out within the pages of the latest popular novel? Not exactly. These examples, unearthed during recent hearings here in the Senate, are taken directly from the playbook of the Internal Revenue Service.

The hearings, and the abuses they highlighted, have focused the nation's attention on the "IRS Restructuring and Reform Act" that is now before the Senate. Included within the legislation are many good provisions that would protect taxpayer rights and restrict the power of the agency. Key provisions would limit interest and penalties on delinquent taxes and shift the burden of proof from the taxpayer to the IRS in tax disputes.

Before I continue, Mr. President, I would like to take this opportunity to commend Senator ROTH, the Chairman of the Finance Committee, for his tremendous efforts to reform the IRS and his leadership on tax relief.

I also commend the Chairman for holding the series of oversight hearings that exposed the abuses upon taxpayers carried out by the IRS. All of us are greatly indebted to Senator ROTH for that. He has done an outstanding job to formulate a sound and responsible IRS restructuring plan.

If enacted, these reform provisions before us today would improve IRS service, make the agency more accountable, and provide better protections for the taxpayers. I fully agree with Senator ROTH that the goal of IRS reform should be to make the IRS "a service-oriented agency instead of a law-enforcement agency."

Still, Mr. President, a fundamental question remains: can the IRS really be fixed by reform without scrapping the Tax Code? To answer this, we need to take a closer look into the problems with the IRS.

The passage in 1913 of the 16th amendment to the Constitution granted Congress the power to impose an income tax. A tiny division of the Bureau of Internal Revenue Service was created to collect the taxes. Eighty-five years later, this division, now known as the IRS, has grown to become the most powerful agency in the entire Federal Government.

The IRS today employs more investigative agents than the FBI and the CIA combined, and boasts a total workforce of more than 100,000. It is hard to believe, but more employees work at the IRS than in all but the 36 largest corporations in this country. The decisions its bureaucrats make daily affect every American who takes home a paycheck.

The agency's job is to administer and enforce the Nation's tax laws and collect tax revenue for the Government. To ensure that all Americans pay their taxes, Congress has given the agency almost unlimited power—power that goes beyond the authority granted to any other agency in the Federal Government.

By law, the IRS can audit individuals or businesses. It can impose penalties and impose a lien on a taxpayer's property or bank accounts, or seize them altogether. Average taxpayers and small business owners have few little administrative or legal remedies against such a powerful agency.

Its unlimited power has made the IRS a wasteful, arrogant, incompetent, intrusive, and abusive agency. The IRS is driven by illegal quotas and collection goals. It has targeted the underprivileged for audits. It has mistreated hundreds of thousands of innocent taxpayers. Clearly, this is an agency out of control, an agency in need of a complete overhaul.

But let us not forget how the IRS reached this troubled point. Congress deserves much of the blame for the present state of our hostile tax system, for it is Congress that created the IRS in the first place.

Congress grants the IRS its unlimited power. Congress writes the complicated Tax Code that taxes Americans' income over and over and provides loopholes to thousands of special groups, making the Tax Code too complicated for even most attorneys and tax accountants to fully understand. Congress requires the IRS to squeeze more tax money out of the taxpayers so that Congress has more to spend. On top of that, Congress does not have time to fully exercise its IRS oversight responsibilities. Even while it talks reform, Congress is making the Tax Code ever more burdensome—since last year, Congress has added 185 new sections and 824 changes to the Tax Code.

Most IRS employees are decent, hardworking people who face an impossible task: interpreting and applying the hundreds of thousands of pages of the Tax Code and its related regulations. A recent study shows that more than 8 million Americans each year receive incorrect bills or refunds due to IRS errors. Each year, Money magazine hires 50 professional tax preparers to calculate a return for a sample family. No two preparers have ever had the same result; answers can vary by thousands of dollars. It just shows that the Tax Code is confusing and arbitrary, and this in turn encourages waste, harassment, corruption and abuse.

Tinkering with the system by merely restructuring the IRS will not solve its fundamental flaws. It is clear that the real problem with the IRS is not management, or administration, but the Tax Code on which all IRS decisions are based. This is such an ugly agency it is hard to make it pretty by reforms.

We can replace the IRS management, we can improve its service, crack down on abuses, increase its efficiency, and reduce its waste, but the fundamental problems will not go away. Reorganizing the IRS without real reform of the Tax Code will send a false signal to the American people that once we restructure the IRS, all its problem will be solved and there will be no need to reform our tax system. Unfortunately, as the history books reveal, it is not that easy.

We have tried to overhaul the IRS in the past, and somehow the agency always comes back more powerful and more abusive than ever before. At least two versions of a "taxpayer bill of rights" previously enacted into law have had little effect in taming the IRS. Even after last year's IRS abuse hearings, which resulted in promised reforms, the abuses continue.

Mr. President, let me make this clear: it is vitally important that we continue our efforts to reform the IRS, and I strongly support Chairman ROTH's work and his legislation. My point is that we should not let this debate delay or derail real tax reform—to delay us from carrying out the demands of the taxpayers to scrap the Tax Code and replace it with one that is simpler, flatter, fairer, and friendlier.

This Chamber already passed a resolution to sunset the Tax Code. Now we should set a date to establish a new tax system. Once we have eliminated the Tax Code, there will be little, if any, need for the IRS and its playbook or its abuses.

Thank you very much, Mr. President. I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I ask unanimous consent to be able to speak as in morning business for 12 minutes.

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

Mr. DORGAN. Mr. President, I certainly would not object, but I ask the chairman if I might be able to speak for 8 minutes by unanimous consent following Senator CONRAD.

Mr. ROTH. A total of 20 minutes then. The manager has no objection.

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

Mr. CONRAD. I thank the Chair.

THE FARM CRISIS IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rose 2 days ago to alert my colleagues to the economic disaster that is befalling North Dakota with a dramatic drop in farm income. And I showed this chart; the headline: "North Dakota Farm Incomes Washed Away In 1997," that showed from 1996 to 1997 farm income dropped 98 percent in North Dakota.

In fact, in 1997, the total farm income in the entire State of North Dakota, one of the most agricultural States in the Nation, was down to only $15 million—$15 million—of farm income spread among 30,000 farmers. That was a farm income per farm of only $500.

Mr. President, the Wall Street Journal yesterday had a front page article entitled "Off the Land," and they confirmed the basic outlines of the story that I ve been telling for the last 2 days on the Senate floor. And in their front page story, they pointed out, "On the Northern Plains, Free-Market Farming Yields Pain, Upheaval. After Deregulation, Drop In Wheat Prices Compels Many Growers to Quit. The Effect Spreads South."

Mr. President, the article in the Wall Street Journal goes on to report that:

> Cheap wheat and bad weather are doing to Nathan Johnson what they couldn't do to three preceding generations of his farming family.
>
> They are defeating him.

Mr. President, this is a story from northwestern Minnesota, but it is identical to what is happening right across the border in northern North Dakota.

This story goes on to say:

> Last year, a disease called scab wiped out half the wheat [that Mr. Johnson] planted on the land around his family's 1887 homestead near the Canadian border. And now, a glut of foreign wheat is pushing down the grain's price at the local elevator to an unprofitable $3 a bushel. These days, Mr. Johnson is trying to rent out his land and looking for work in the city.

Mr. President, the article goes on to say:

> Across the Northern Plains, the long migration away from agriculture is turning into a stampede. From Montana to Minnesota, thousands who made their living growing wheat are quitting the prairie. A blizzard of barnyard auctions is sending chills down the Main Streets of the towns that live off farmers.

One man is quoted as saying:

> "We're doing a sale every day," says Brad Olstad of Steffes Auctioneers Inc. in Fargo, N.D. "Wheat is a dying crop."

And wheat, of course, is the commodity that goes to make bread, to make pasta; and they are talking here about it being a dying commodity.

> Bad years are nothing new around here. Wheat prices were lower in 1990, when a similar coincidence of bumper harvests around the globe swamped the market. The drought of 1988 destroyed wheat fields. But none of that was as deadly to farmers as what is happening now: deregulation.
>
> Two years ago, Uncle Sam began withholding from the decades-old business of protecting farmers against the vagaries of weather and markets. Grain and cotton farmers no longer receive "deficiency" payments when prices are below target levels. Shelved, too, was the disaster-aid program that pumped $18 million into Kennedy—

This is a small town in Minnesota that is being reported on in the Journal article—

> and the rest of Kittson County after the 1988 drought.
>
> * * * * * *
>
> The bottom line: Many of Kittson County's farmers are suffering their biggest financial losses ever. "Deregulation is turning into a disaster for us," says Duane A. Lyberg, president of the Northwestern State Bank.

Now, that tells you something about the depths of this disaster. It is not just farmers reporting on it, not just, as I reported yesterday, implement dealers or other suppliers to farmers; but now the bankers are reporting to us what a financial disaster they are facing.

In fact, I just completed 2 weeks of meetings across the State of North Dakota. And in every small town where I

went, the bankers took me aside and said, "Senator, there is something radically wrong in agriculture. Our farmers are not cash flowing. And they're not going to cash flow."

In North Dakota, the Journal article reports:

So many are throwing in the towel that state officials got a federal grant last month to retrain hundreds of growers for other jobs. "I've never seen it as bad as this," says Roger Johnson, North Dakota Commissioner of Agriculture.

They go on in this article to quote the former Secretary of Agriculture of the United States, and he says the following:

Unless the bankers get worried, nothing will get changed in Congress, says Bob Bergland, Agriculture Secretary during the Carter administration, who lives in nearby Roseau, where his family grows wheat. "The hourglass is running out for a lot of farmers around here."

That is the truth. We are in desperate trouble in the northern plains.

Let me just conclude with a final paragraph from the Wall Street Journal article.

Jim Tunhelm, the state legislator here, sits at his dining-room table, pointing all around him, in the direction of farmers he knows who are quitting. "Arnold, Lamar, Troy," he says. He stops at eight. "They should have called it 'Freedom to go broke.' [As he referred to the so-called Freedom to Farm bill we passed here in Congress in 1996.] We're going to disappear at this rate," [he concludes.]

That is the hard reality of what is happening in my home State. A 98-percent reduction in farm income in 1 year. Thousands of farmers leaving the land.

I started this series of reports 3 days ago. I pointed out that North Dakota had experienced this enormous drop in farm income. Yesterday, I reported on what others are saying who are close to the farm economy. Today, I am able to report the Wall Street Journal is confirming, in this front page story, precisely what I have been saying.

The fact is, we have a stealth disaster in North Dakota. It is brought on by low prices, by disease, and by weak Federal policy, a farm bill that does not sustain farmers in the bad times, or at least allow them to continue, and the lack of disaster program. The only disaster program we have now is low-interest loans.

So the Federal Government is saying to those farmers, those family farmers who dot the countryside, "If you are in trouble, go deeper into debt." That can't be the answer. We must do better.

I urge my colleagues to pay attention because this isn't just a matter for North Dakota. Yes, we are in the first trench, but it is just a matter of time before others experience what we are experiencing now.

I thank the chair.

Mr. BAUCUS. I very much thank the Senator from North Dakota for drawing the Senate's attention to the Wall Street Journal article, and, more importantly, to the plight of our farmers in the northern Great Plains.

The article mentioned Montana and Minnesota. The Senator is absolutely correct. I have never seen it this bad. Just last weekend when I was home a banker pulled me aside and said virtually what you said, Senator; namely, it is getting so bad the bankers are getting worried about their loans and whether they will be repaid. It is true, the farmers can't cash flow. It is grim.

I urge farm organizations to dig down deep, put their heads together and come up with a solution that we, the Congress, can help with.

We passed Freedom to Farm. Most farmers in my State supported it at the time because the wheat price was high and the initial payments were high. We all knew the day would come when we would be paying the price for adopting that bill but it has come a lot earlier. It has come this year rather than a couple, 3 years from now and with much more strength. It is hurricane force and will drive more farmers off the land. Small towns in eastern Montana are drying up. People are leaving. You see shops on the main street boarded up. It is because the price of wheat, barley, and durum is so low and has been so low at a time when our Government has not done what it should be doing.

This is true of all administrations—to open up foreign markets, get those countries to reduce their barriers so we can sell more overseas. I am thinking particularly of China. China does not take Pacific Northwest wheat. It has not for years because of a bogus claim. That is one of the many examples of countries erecting trade barriers that make it difficult for us to sell a product.

I very much thank the Senator for raising this issue. I urge Senators to listen to the Senator's statement because we are going to be facing this issue here in the Senate fairly soon. I hope this is constructive in addressing the problems that the Senator mentions. It is happening in spades, today, in Montana, particularly eastern Montana.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). Under the previous order, the Senator from North Dakota, Senator DORGAN, is recognized.

Mr. DORGAN. Madam President, Senator CONRAD has raised the farm issue the last several days on the floor of the Senate, and I appreciate the comments he has made, as well as the comments of the Senator from Montana.

This is not just about dollars and cents. And it is not just a lesson in economics. My great-grandmother homesteaded in North Dakota when her husband died. She took six kids and homesteaded on the prairie, pitched a tent, homesteaded 160 acres, and began to run a farm. It was a hard, tough life, I am sure. Farming is not easy. They live out in the country. They have a yard light burning at night. Farmers get up in the morning to do chores, and they work all day. If they have enough money to put in a spring crop and plant some seeds, they wonder whether the grasshoppers will come, whether crop disease will come, whether it will hail and wipe out their crop. Maybe none of that will happen and they will raise a crop and that crop will come out of the ground. Then they will combine it in the fall and they wonder, will there be a price so they can sell the crop at something more than it cost to produce.

The answer, sadly, except for one year in the past 20 years has been no. There is no price for your crop above the full economic costs of production. You do what you love to do and you lose money.

The article in the Wall Street Journal referenced today by Senator CONRAD talks about these farmers who decide they can't do this anymore. They just quit. They have to quit.

I had a banker call me about two hours ago and he said, "You know we only call when there are real problems, and you know I have one of the most conservative banks in the state." He said, "The fact is I am now turning away good farmers. Year after year after year I have given them operating loans to go into the field in the spring. I can't do it this year because they can't cash flow. And they will have to quit farming." He said, "That is what is happening out here in rural America."

One might ask, why does it matter? And some people in this Chamber think it doesn't matter who farms. Why does it matter that we have a family farmer out on the land? Well, you can have corporate agrifactories gassing up their big tractors and farming coast to coast and you won't have anybody living out in rural America.

Is there a difference between having a network of family farms, and farm families that dot the landscape of this country, versus having corporate agrifactories that gather up land by the sections and the townships and the counties and then farm as far as the eye can see forever? Is there a difference? It seems to me there is a huge difference for this country.

For social and economic reasons, this country ought to care about having a network of families out on the farms in this country being able, year after year, to produce food for this country. If we continue to go in the direction we are headed, we will see thousands and thousands of family farmers leaving the land. It is because we have a farm policy that says you can't make a living out there. It tells family farmers

you can't make it. Then this country will have lost something significant.

The seedbed of family values in this country that we hear so much about has always been the family farm. These values roll in from the seedbed of the family farm into small towns and into America's cities. We will lose something important in this country if we do not decide family farms are important and that we will do something to try to protect them.

Some say in this Chamber, let farmers operate in the free market. Well, there is no free market. Do you think farmers can raise a cow and ship it to China? I think not. Can they raise a pig and sell it in China? I don't think so. Do you think farmers can compete against Canada, which sends unfairly subsidized durum into our markets? Can farmers compete against the European communities that subsidize their commodities at 8, 10, and even 12 times the level of U.S. subsidies in recent years in trying to get foreign markets for European wheat? Is that fair? Is that free? I don't think so. Yet, we tell our farmers, you just go ahead and operate in that marketplace. We will just call it free.

What happens in this free marketplace? What happens is that the people who haul the grain make record profits.

The people who process the grain make record profits. The people who trade the grain make record profits.

The only people who suffer the losses year after year, sufficient so that they are now going out of business in record numbers, are the people who buy the tractors, get up in the morning and plant the seed in the ground, harvest the crop in the fall, and try to sell it. Those are the people who are losing money.

You go to your grocery store and ask yourself a question. When the price of wheat was $4.50 or $5.50 a bushel and it plummeted to $3.30 a bushel, ask yourself what happened to the price of a loaf of bread in the grocery store. Did you see that price come down? I don't think so. How about when the price of beef plummeted? Did you go to the meat counter in your grocery store and see that the price of beef came down? I don't think so.

What does it say about this economic system of ours when we say to the people who do the hard work, the people who wear the work clothes, and start the tractor, and plow the ground, and plant the seed, and harvest: "You can't make any money. It is everybody else in this process who can make record profits. But if you grow the seed, you lose money."

When they take that wheat into a processing plant and puff it up and sell it on the grocery store shelf as puffed wheat breakfast food, they can charge more for the puff than the farmer is going to get from the wheat. One suffers and goes out of business, and the other makes a record profit.

If this Congress and this country doesn't start caring a bit about whether we have family farmers in our future, this country is going to lose something very important. When we talk about this subject around here, everybody talks about economics and dollars and cents. This isn't just about dollars and cents. This is not about knowing the cost of something. This is about knowing the value of something. We need to know the true value of family farmers in this country.

I am enormously frustrated. This article in the Wall Street Journal chronicles what we see and what we know every day in the streets of North Dakota, in our small towns, and out on the country roads, and the same is true in Montana. We have heard it farmers who come to our meetings and stand up. One farmer comes to mind who came to a meeting of mine. He was a big, burly guy and had kind of a beard. It was not a long beard, but kind of a short beard. He had friendly eyes. He stood up. He was a tall fellow. He said, "My granddad farmed, my dad farmed, and I have farmed for 23 years." And then his chin began to quiver. He got tears in his eyes, and he said, "But I have to quit this year because I don't have the money to continue. I'm out of business."

He was the third generation in the family to farm. He was going out of business because this country has a farm policy that says we are going to pull the safety net out from under family farmers. Now, we had better reconnect that safety net if this country cares about having a family farmer left in its future.

Senator CONRAD, myself, Senator BAUCUS, Senator DASCHLE, Senator WELLSTONE, and so many others on both sides of the aisle, care about the future of family farmers. We must, it seems to me, convince the rest of this Congress that this current approach is an approach that leads to failure.

Let me read a paragraph in the Wall Street Journal article:

> The situation in Kittson County suggests that deregulation—

Which is the description of the current farm policy, which I voted against proudly—

> is staying, and for a grim reason: Farmers are giving up. Nobody is organizing the type of protests that attracted national attention the last time so many farmers here were in trouble. That was in the mid-1980s debt crisis, when Randy Swenson would travel from his Kittson County farm to Fargo and Bismarck to join demonstrators demanding a federal bailout. Now, the 46-year-old grower is just quitting.

I say to those out there on the family farm who have struggled, who risk everything in trying to make a living every single day—and I hope my colleagues will join me in this—that they ought not to give up hope. There are plenty of us in Congress who understand that family farming is a way of life that this country ought to nurture and protect and help in its future.

I hope, as we proceed to discuss this in the coming weeks, that we can impress the need for a change upon those who were the architects of this farm program. The current program puts farmers into the marketplace, whatever that marketplace happens to be. There are those who think this is fine, because after all they think it is a free marketplace. I hope they come to understand that the marketplace is not free. It has never been free.

We can't have farmers compete against unfair trade. We can't have farmers compete in a marketplace dominated by millers who want low prices in the marketplace and grocery manufacturers who want lower prices in the marketplace. We can't ask them to compete against scab disease that will wipe out the crop yield and crop quality. We can't ask them to compete against a railroad that will haul their grain to market but charge them 20 or 30 or 40 percent more than is justifiable.

If somebody thinks that is a free marketplace, then somebody doesn't know what "free" or "marketplace" really means. We can do better than that. There are enough of us here to raise enough dust to require that we do better, so that in the coming days some of this policy can change to be helpful to family farmers.

Mr. CONRAD. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. CONRAD. I don't know if the Senator noticed in the Wall Street Journal article, former Secretary of Agriculture Bob Bergland said, "Unless the bankers get worried, nothing will get changed in Congress."

Isn't it the case that you and I just met yesterday morning with the bankers from our State and those bankers are worried? We had banker after banker from across the State of North Dakota tell us they are going to wind up farming. We just got a report that, for the first time in anyone's memory, land in the Red River Valley of North Dakota, which is the richest farmland in the world, will not be farmed this year; it will not be farmed.

Isn't it the case, Senator DORGAN, when we talked to our bankers, they told us they anticipate thousands of farmers leaving the land this year in North Dakota and a much more serious situation next year unless we take action?

Mr. DORGAN. That is exactly the case. I just hope that as we finish these comments now, we will all understand that there is work to do. When you see reports like this—reports that don't surprise us because we have been hearing it for some long while—we should understand that while part of this

country is doing quite well and there is a lot of good economic news, there are also troubled spots in our economy that are causing enormous hurt and pain to people who don't deserve it.

America's family farmers are wonderful people. They are the people in this country who work, who grow, who risk, who come together, neighbor to neighbor, to help each other. But they can't help each other when they go to the market and discover that the price of wheat is $3 or $3.30, or when they go to the field and discover that scab wiped out half the quantity of their grain, or when they go to the railroad and discover that the price to haul the wheat to market is vastly inflated, or when they go to the border up in Canada and discover unfair shipments of grain that undercut their prices, or when they say, I would like to sell my wheat to China, or my beef to China, but you can't get wheat or meat into China in any meaningful quantity because we don't have open markets overseas.

It is not fair to put farmers in that position, and we should not. It seems to me that we have a responsibility to provide a basic safety net if we want to protect a network of family farmers to be present in this country's future. I think we ought to do that. I think it is a priority for us in this Congress, and I hope that a number of us can work together on a bipartisan basis to see that this occurs in the coming weeks and months.

Madam President, I yield the floor.

Mr. HUTCHINSON. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 2676, the IRS reform legislation.

Mr. HUTCHINSON. Madam President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 10 minutes.

ASTHMA INHALERS

Mr. HUTCHINSON. Madam President, today, as you may be aware, is Asthma Awareness Day. I rise to discuss the issue of CFC-propelled asthma inhalers.

CFC-propelled inhalers are a necessary tool for proper management of asthma and other respiratory illnesses. Over 30 million Americans depend on these inhalers in order to function normally in their daily lives. In many cases, they are literally the difference between life and death.

I recently joined my colleague, Senator DEWINE, in introducing S. 2026, the Asthma Inhaler Protection Act. This bill is a revised version of legislation that I introduced last year in response to the Food and Drug Administration's announcement of its plans to issue a rule that will phase out the production of CFC-propelled inhalers.

The FDA's announcement to phase-out metered-dose inhalers was prompted by the Montreal Protocol agreement to eliminate ozone depleting chemicals, including CFCs. In the U.S., the manufacture of CFCs was discontinued in January of 1996. CFCs may still be used, however, as long as their use qualifies as an "essential use." Currently, inhalers are considered as "essential use" and are exempt from the CFC ban.

As the United States contemplates total elimination of CFCs and removal of the essential use designation for inhalers, we face several issues.

First of all, how fast should we phase out CFC inhalers and will patients' health be jeopardized? It is my understanding that the amount of CFCs released by metered-dose inhalers accounts for less than 1.5 percent of the total amount emitted into the atmosphere. Is the environmental benefit of phasing out inhalers without taking into account the full needs of patients worth placing lives in danger?

As a member of the Senate Environment and Public Works Committee and the Senate Labor and Human Resources Committee, I support the goal of ridding our environment of ozone depleting chemicals.

However, from a patient perspective, any transition to CFC-free alternatives that does not take into account the needs of all patients will do more harm than good.

Under the FDA's initial proposal, a whole class of inhalers could be removed from the market if only three alternatives exist. The method by which the FDA has grouped inhaler medications into classes assumes that they are medically and therapeutically equivalent. I suggest to my colleagues this is FALSE.

Inhalers vary in terms of formulation, dosage strength, delivery of medication, and their effectiveness for patients. Patients frequently test several inhalers under physician supervision before they find the inhaler that works best for them. To deny patients their inhaler without a suitable range of alternatives could potentially put their lives at risk.

Another concern that cannot be overlooked is how the removal of existing products and their generic counterparts will influence the marketplace. A decrease in competition has obvious consequences in terms of cost and the availability of drugs on the shelf.

Finally, the FDA should take into account other countries' strategies for phasing out CFCs in inhalers in order to ensure that the U.S. takes the best and most responsible approach. I know that Canada, for example, has rejected the class approach taken by the FDA and proposed a policy that will require a proper range of alternatives to exist for each medication type. It also provides for a transition period so patients can ease off of their current medication and make sure that there is a new product that accommodates their needs.

The Asthma Inhaler Protection Act addresses all of these issues by including three requirements. First, before any further rulemaking, the FDA must conduct assessments and report to Congress on the health and environmental risks associated with its initial proposal. It must also consider whether any measures adopted by the meeting of the Montreal Protocol this November will facilitate the United States' transition away from CFC inhalers.

Second, the FDA is required to develop criteria by which "essential use" allowances for CFC-propelled inhalers will be removed. These criteria shall require that a range of alternatives are available for each medication type, and that they are comparable in terms of dosage strength, delivery systems and safety and efficacy. Furthermore, the alternatives must be available in sufficient numbers to meet consumer demand.

Finally, the Asthma Inhaler Protection Act includes steps to ensure that manufacturers will begin to transition away from inhalers that employ CFCs. Under the bill, no new applications for products containing CFCs will be considered by the FDA after 1998 unless they represent a significant advance in technology. Any new approvals, however, will be subject to the same criteria as I described earlier.

Madam President, the transition to non-CFC propelled inhalers in the United States must be well-planned and take into account both patient and environmental concerns. It is clear that the FDA needs to rethink its approach. We knew this last year after the FDA published its proposal and was flooded by more than 10,000 comments from concerned patients, providers, state medical boards, and advocacy groups. These concerns were again raised last month during a Senate Labor and Human Resources Committee hearing which Chairman JEFFORDS held at my request.

The Asthma Inhaler Protection Act will ensure that the FDA balances patients needs with environmental concerns, and above all, does not jeopardize the lives of millions of Americans who depend on CFC metered-dose inhalers.

It is simply a matter of ensuring that the 30 million Americans currently dependent upon these inhalers—and all of us have seen them; these little canisters that asthmatics carry with them every day everywhere they go—we simply must ensure that as the FDA moves forward that they will do so in a way that ensures that patients all across

this country are not allowed to go without medical care that they so desperately need; and that the policy of the FDA will be such that these patients will know that they are not going to have less choice than they have now; that the particular peculiar medical needs that asthmatics and others of respiratory diseases have will be met; that they will be assured that the needs that they have can be addressed; and, that the FDA will take those concerns into account as they move forward.

I believe the FDA will be responsive. This legislation, though, is there, and I am looking forward to working with Senator DEWINE, Congressman PATRICK KENNEDY and Congressman MARK FOLEY on the House side to ensure that as the FDA moves forward with its rulemaking that it will do so in a way that is going to ensure that 30 million Americans are cared for and are not left in the lurch worried that their very lives might be in danger.

I hope all of us on this day, the first Asthma Awareness Day, will do our part to educate the American people about the serious health impact, particularly upon our children, that asthma is having, and the dramatic increase that we have seen in asthma in this country, and that the FDA in their, I think, well-motivated goal of removing these chemicals from our environment will do so in a way that the health and safety of the American people is protected.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, I ask unanimous consent for 5 minutes to speak as if in morning business.

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

Mr. WELLSTONE. Madam President, I thank my colleagues for their graciousness, and I especially thank Senator GRAMM of Texas. I appreciate it.

FARM CRISIS

Mr. WELLSTONE. Madam President, my colleagues from North Dakota, Senator CONRAD and Senator DORGAN, said it well moments ago when they were speaking about the Wall Street Journal piece that came out yesterday, Tuesday, May 5 regarding what has to be described as a farm crisis. In this piece, former Secretary of Agriculture Bob Bergland is quoted. Jim Tunheim, a State legislator from northwest Minnesota, is also quoted.

I want to talk about what is happening in my State of Minnesota because I believe it will be incumbent upon all of us here in the Senate and in the House of Representatives as well to take some action.

I was at a gathering in Crookston, MN some weeks ago. As I walked into the school, there was a sign posted outside that said, "Farm Crisis Meeting". It brought back awful memories of the mid-1980s when I went to probably hundreds of farm crisis meetings. What I saw then all across Minnesota were foreclosures; people being driven off their farms where they not only lived but where they worked as well. I saw a lot of broken dreams and a lot of broken lives and a lot of broken families. This is now happening again.

This very fine piece in the Wall Street Journal talks about this farm crisis in very personal terms.

I want to say to colleagues that I know of no other way to say it. Some 2 years ago, when we passed what was called the Freedom to Farm bill, I called it then the Freedom to Fail bill. And I think that is exactly what is happening. All of the discussion about the market presupposes that we have Adam Smith's invisible hand in agriculture. But what we have instead is a food industry where the conglomerates have muscled their way to the dinner table exercising raw economic power over farmers, consumers, taxpayers, and family farmers. Wheat farmers, corn growers and other farmers—vis-a-vis these large companies that they deal with don't have very much clout at all.

This was a good bill for some of the big grain companies. There are only a few. But it was not a good bill for family farmers.

Now, in northwest Minnesota, a combination of dealing with scab disease, wet weather over the last several years, and, most important of all, this Freedom to Farm bill, which has driven prices down, which doesn't give the farmers a loan rate to have some leverage in the market, which doesn't give them a safety net, is driving farmers off the land.

We need to take some action. The Secretary of Agriculture supports lifting the cap on the loan rate. And we can legislatively try to raise that loan rate so that we can give farmers a price in the marketplace.

I just want to say to my colleagues, I told you so. That is the way I will put it. I told you so. And northwest Minnesota is just a harbinger of what is going to happen across this country. Prices are low. Farmers are being driven off the land. There is a tremendous amount of economic pain. And it is not just the farmers. It is the communities where they live, where they go to church or to synagogue, where they buy their products, where they send their kids to school.

We have a serious crisis in northwest Minnesota. I am hearing from farmers in other parts of my State as well. I think rural America is going to go through some economic convulsions as a result, in part, of this legislation that we passed. We have to give farmers a fair price in the marketplace. We secured them some loan funding in the disaster appropriations bill we passed last week, which gives them at least some loan assistance for spring operations. But it doesn't make that much difference long-term. It can keep them going for awhile, but if they don't get a decent price in the marketplace, they don't have a prayer.

That is what this piece in the Wall Street Journal is about. That is why I come to the floor of the Senate. I look forward to working with my colleagues, Democrats and Republicans alike, who come from farm States. We have to do something. We are here to try to do well for people. We have to do better for family farmers in Minnesota and across our country.

I thank my colleague from Texas again for his graciousness, and I yield the floor.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate resumed consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. ROTH. Madam President, I ask unanimous consent that the following list of amendments that I send to the desk be the only remaining first-degree amendments in order to H.R. 2676, and that they be subject to relevant second-degree amendments.

I further ask unanimous consent that following the final vote on the bill, the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. I checked with the minority side. It is my understanding this has been agreed to by both sides, and his request is consistent with the understanding on this side as well.

Mr. ROTH. That is correct.

The PRESIDING OFFICER. If there is no objection, without objection, it is so ordered.

The list of amendments follow:

REPUBLICAN AMENDMENTS TO IRS REFORM

Roth—Effective Dates.
Roth—Relevant.
DeWine—Tech. Correction to Sec. 1059 of the Code.
DeWine—Tax Payer Compliance.
Collins—Reporting Requirements for Universities.
Thompson—Relevant.
Sessions—IRS Oversight Board.
B. Smith—Upward Reviews of Employees.
Stevens—Modify tools of trade exemption.
Craig—Taxpayer notification.
Craig—Taxpayer notification.
Craig—Taxpayer notification.
Ashcroft—Electronic verification.
Coverdell—Random Audits.
Coverdell—Tax Clinics.
Coverdell—Tax Clinics.
Coverdell—Employees.

Coverdell—Mathematical and Clerical Errors.
Domenici—Spanish IRS Help Line.
Domenici—Live Person Help Line Option.
Domenici—Suspend Interest in Penalties.
Gramm—Lawsuit Waivers.
Gramm—Burden of Proof.
Gramm—Relevant.
Enzi—Charitable Contribution Technical Corrections.
Burns—Income Averaging for Farmers.
Bond—Electronic Filing.
Mack—Tip Reporting.
Mack—Treasury Secy.
Grams—Disasters.
Lott—Relevant.
Faircloth—Relevant.

DEMOCRATIC AMENDMENTS TO IRS RESTRUCTURING

Moynihan—Delay effective dates of certain provisions to allow IRS to address Y2K problems, per Rossotti request.
Kerrey—Require annual meeting between Finance and Oversight Board chair.
Kerrey—Authorize Treasury Secretary to waive signature requirement for electronic filing.
Kerrey—Require study of willful tax noncompliance by Joint Tax, Treasury, and IRS Commissioner.
Kerrey—Require IRS to review certain stats on success rate of Criminal Investigation Div.
Kerrey—Require report on fair debt collection provisions.
Kerrey—Encourage private/public sector cooperation, not competition, on electronic filing.
Graham/Nickles—Interest netting.
Graham—Innocent spouses.
Bingaman—Relevant.
Daschle—Reduce potential for tax compliance problems.
Daschle—Relevant.
Bumpers—Taxpayer protection.
Kohl—Prioritizing cases in Treasury IG.
Feingold—Milwaukee office of IRS.
Durbin—Relevant.
Feinstein—Relevant.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, since no one is here to speak, I thought I would go ahead and say a few words. I have several amendments I am going to be offering, and I will, obviously, speak at that time. But I wanted to let my colleagues know about a story that ran on the 4th of this month, which was 2 days ago, on KTVT, Channel 11, a CBS affiliate in Dallas.

What struck me about this story is how symptomatic the story is of what we saw consistently in our hearings before the Finance Committee and how consistently this kind of thing is happening all over the country.

The story was the lead story on the 10 o'clock news on the 4th of May. The story is about tax collectors who aren't paying taxes. Basically, what happened is an investigative reporter asked the Internal Revenue Service for records related to tax collectors who themselves were violating the Tax Code, and did this ever happen, and, if so, what did the IRS do about it and what kind of records were kept. It is the kind of request that government at all levels gets every day from the media. Government officials do not always like to produce the requested information but, nonetheless, it is produced.

Well, the bottom line is, as you might have guessed, the Internal Revenue Service stated that it has no such data. Then an IRS employee slipped a document to the TV reporter, and the document showed that last year nearly 4,000 IRS employees did not file or pay taxes.

Collectively, according to reporter O'Connor in this story, they owe Uncle Sam more than $10 million. And this reporter said that this information coming into their hand forced the IRS to break this down into local numbers. The reporter then says, "We have learned that in north Texas, between 1993 and 1996, 137 IRS employees did not file or pay their taxes. Last year alone, 14 IRS agents owed $400,000" in unpaid taxes in north Texas.

Then what I wanted to call to my colleagues' attention is an extraordinary, at least in my mind, interview which sounds exactly like the testimony our committee heard over and over and over again. Listen to this. The reporter is asking Mary Durgin, who is Chief of Tax Compliance for the IRS—the reporter is asking the Chief of Tax Compliance for the IRS the following questions and let me just read the transcript.

Reporter O'CONNOR. You know of no Federal liens ever being filed against an IRS employee?

Ms. DURGIN. Um, I'm not aware of any.

The reporter asks the next question.

Reporter O'CONNOR. Do you know how many reprimands have been given in the last year?

Ms. DURGIN. I don't.

Reporter O'CONNOR. Do you know how many employees have been suspended?

Ms. DURGIN. I don't.

Reporter O'CONNOR. Fired?

Ms. DURGIN. I don't. We don't keep those statistics.

Reporter O'CONNOR. Why would you not know that if you're the head of—

Before she can say "tax compliance," Ms. Durgin says, "because I don't count them."

Now, I intend to send this to the Internal Revenue Service this afternoon and ask them to check this out, but this is exactly the kind of answer that we have gotten over and over and over from the Internal Revenue Service. And I intend to offer an amendment, probably tomorrow, that will give the head of the Internal Revenue Service the power to terminate any employee of the Internal Revenue Service who fails to file a tax return that should be filed or who willfully violates the tax laws of this country.

Now, I don't know what is behind this story. I have obviously not verified what has been said by this reporter. But I would have to say that if 4,000 IRS employees last year either didn't file a return or didn't pay taxes, that is a very, very serious charge. And I think the head of the IRS ought to have the ability to terminate the employment of somebody whose job it is to collect taxes from other people and at the same time they don't pay their own taxes.

Now, as you can imagine, this story interviews a businessperson who had their assets frozen, had all kinds of problems because there was a charge that he had not paid his taxes, and that is contrasted against the assertion that 4,000 IRS agents last year either didn't file a tax return or didn't pay their taxes.

I think this is a very serious matter. We ought to have a provision in the new law that says without regard to any other provision of law, if you work for the Internal Revenue Service and you willfully violate the Tax Code, you ought to lose your job.

I think that is something that is needed. I think it is a provision that we were already looking at, but I wanted to make my colleagues aware of this story on the CBS affiliate in Dallas night before last and about this extraordinary interview with Mary Durgin who, although she is the Chief of Tax Compliance at the IRS, doesn't know if any action has ever been taken at any time, in any place, under any circumstances, against any agent who violated the Tax Code.

That seems to me to be extraordinary, and, quite frankly, I would have trouble believing it had we not had exactly the same thing and the same answers given to very similar questions before our committee where, in fact, with all of the concerns that were raised last year, with all of the statements that were made about wrongdoing, little evidence exists that any individuals who had accusations made against them in those hearings or related to those hearings has had any corrective action taken.

As I said at the hearing, and it is something that I will certainly repeat tomorrow in offering this and other amendments, my concern with the Internal Revenue Service is not that you get some bad people when you hire 100,000 people. I mean, people are humans. They make mistakes. Some people seem to be more prone to them than others. And very smart people from time to time do very dumb things. With the IRS employing 100,000 people we ought not to be surprised that we have some people who do bad things and some people who do dumb things. But that is not what alarms me about our current situation at the Internal Revenue Service.

What alarms me is we seem to have a system where people who do bad things never have bad things happen to them. We have a system where, when people do good things like going to their supervisors and saying that other people are violating the law or violating the

procedures of the Internal Revenue Service, bad things tend to happen to those good people. The difference between a good system and a bad system is not that under the good system you don't have people who do bad things. You do. But under a good system, people who do bad things end up being punished; people who do good things end up being rewarded, and as a result, people learn from rewards and penalties and so you get more good behavior and you get less bad behavior. That is the hallmark of a good institution.

Looking at all the abuses that we heard about during the Finance Committee hearings, the amazing thing to me was not that these things happened. The amazing thing is it doesn't appear that bad things ever happened to the people who did the bad things. It doesn't appear that people who violated the law, violated procedures, abused taxpayers, abused their fellow employees, were penalized. It appeared as if—based on the testimony that we heard—the IRS system was set up to protect its senior people or to provide an environment in which you reward unproductive and undesirable behavior. You would have to conclude that the structure has historically been one aimed at protecting its own versus protecting the taxpayer instead of creating a system that tries to reward productive behavior.

I think this is something we need to deal with. I think the bill that is before us is a dramatic improvement over the bill in the House. I congratulate Chairman ROTH. I think he has done an outstanding job. I think when we started these hearings many people were skeptical about them. I certainly was skeptical. But I think the hearings have brought to light real abuses. And the important thing, obviously, for a legislative body, is not just to find out what is wrong but to try to do something about it.

I think we have a good bill before us. I don't think it solves all the problems. I would have to say I am very skeptical about this advisory board. I don't understand an advisory board that is supposed to advise the Secretary of the Treasury and the IRS Director, and the Secretary of the Treasury is a member of the advisory board. I don't understand how you advise yourself. It seems to me that gives the Secretary of the Treasury two bites out of the apple, and that is probably a mistake.

There are very real ethical problems that have been raised by the relevant agencies of Government that deal in ethics in having the head of the Treasury Employees Labor Union as a member of this advisory board, since that member, by the very nature of his job and source of employment, has a constant conflict of interest. I don't understand how you can change the ethics rules of the Government to put people in a position where they constantly have a conflict of interest and expect much to come out of this advisory board. So, frankly, I know many people are talking about the advisory board. I know they have high hopes for it. I have very little in the way of high hopes that we are going to get much out of this advisory board.

But what I think we are doing in this bill that will dramatically change behavior is, No. 1, we are shifting the burden of proof in disputes between taxpayers and the IRS. We are going to have some people who will say that in doing so we are jeopardizing our ability to collect taxes because the taxpayer is the only person who has access to the financial data and records that substantiate the claims made on the individual tax return. I think we have come up with an innovative way of resolving this. Let me give you the argument for shifting the burden of proof, and then describe the innovation that I think answers those concerns.

If you commit a crime, the police come out and investigate the crime, they gather evidence, they turn the evidence over to the prosecutor, the prosecutor evaluates the evidence, and in doing so, evaluates not only whether a crime was committed but evaluates the work of the police department and any abuse it might have committed along the way. And if the prosecutor is convinced there might be a case, he takes it before a grand jury that evaluates the work of the police, the work of the prosecutor, and the facts. Then, if the grand jury indicts a person for a crime, they go into court where people have a jury of their peers, they generally have an elected judge or an appointed judge, and they have an independent prosecutor.

Our problem with the Internal Revenue Service is that we are dealing with one agency that is literally investigator, prosecutor, judge, and jury all wrapped into one so that we have no effective checks and balances. As the ancient Greeks once observed, power corrupts. That is basically our problem in the Internal Revenue Service.

We have not fixed that problem, in my opinion. But the way we tried to get at it is to at least give you one thing you have if you are accused of being a common criminal, basically saying if you are a taxpayer you ought to have rights at least equivalent to a common criminal in dealing with your Government. The right that we want to guarantee is that the burden of proof is on the IRS to prove that you did something wrong, whereas now it is literally true that if you are accused by the Internal Revenue Service of violating the Code, the burden of proof is on you.

Here is the innovative way we have tried to protect our ability to collect taxes and guarantee this right as well. I thank Senator ROTH for working with me on this and for the solution that he and his staff have come up with.

The way the bill works is, if the Internal Revenue Service accuses you of violating the law or violating the rules with regard to the collection of taxes, if you present to them on a timely basis the financial data that a reasonable person could be expected to have kept, if you turn it over to them when requested, at the point that the taxpayer has demonstrated compliance with those requirements, and only then, the burden of proof shifts from the taxpayer to the Internal Revenue Service.

I think that answers all the concerns that were raised by IRS, all the legitimate concerns that were raised by law professors around the country about shifting the burden of proof. There were other concerns that this would produce endless hearings and rulings before courts. But we have dealt with that concern.

Another reform contained in the bill and which I think is very important, and is something that I have been a champion of along with our chairman, is strengthening the principle that if you are audited, either in your family's tax return or your business tax return, and you had to go out and hire lawyers and accountants to defend yourself—and you may spend thousands of dollars defending yourself—that at the end of the day if you are found to have complied with the law, that the IRS is responsible for reimbursement of the costs you have incurred in defending yourself.

So if I am an honest taxpayer and I paid my taxes and the IRS audits me and I have to go out and hire an accountant and a lawyer to defend myself, and we go through 18 months of contention, and finally there is a ruling that says I didn't violate the law, under our bill now, the Internal Revenue Service will now find it more difficult to avoid having to compensate me for my cost of hiring a lawyer and hiring accountants and defending myself.

Not only is that fair, but that is going to change behavior, because we are going to make this data public, we are going to list publicly and report to the Congress on the instances where the IRS has had to pay people these costs. We are going to force the Internal Revenue Service to make better judgments about whom to go after and whom not to go after.

A final wrinkle on this, which I think is very, very helpful, is that if you offer to settle with the Internal Revenue Service and you, say, offer to pay $15,000 to settle this dispute, and the IRS says, "No, we won't take your $15,000; we are going to take you to court," if at the end of the proceedings you are found to owe less than $15,000, not counting penalty and interest built up during the time where the dispute exists, then the IRS will have to pay your legal and accounting costs from

the time you made the offer until a final settlement is eventually reached.

This is a long way from the checks and balances we have in the criminal justice system. I would like to go further in separating the functions of the IRS so that we have more checks and balances, but I think our bill is a dramatic improvement over the House bill. I am very proud of what we have done. I hope we can do more. I congratulate our chairman.

I understand that Senator THOMPSON is here, so I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 2356

(Purpose: Striking the exemptions from criminal conflict laws for board member from employee organization)

Mr. THOMPSON. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Tennessee (Mr. THOMPSON), for himself and Mr. SESSIONS, proposes an amendment numbered 2356.

On page 180, beginning with line 7, strike all through page 181, line 17.

Mr. THOMPSON. Madam President, the amendment I am offering, with Senator SESSIONS and with the support of Chairman ROTH, strikes the provision of title I of the bill which provides for a special waiver of the criminal conflict of interest laws for the employee organization representative on the newly organized oversight board.

As chairman of the Governmental Affairs Committee, I have a specific interest in the application of Government ethics laws and any waivers of these criminal statutes which might be granted to Federal employees.

During markup of the measure, the Finance Committee adopted an amendment adding a member to the oversight board who would be a representative of an employee organization representing substantial numbers of IRS employees. However, because of the inherent conflict of interest in the new member's position, the committee adopted a subsequent amendment waiving four essential ethics laws as they would apply to this particular board member.

It is this specific provision that I propose to strike. Under the waivers as granted, the employee organization representative would not be subject to the same ethics rules as the other members of the oversight board and would not be subject to the same ethics that apply to other public employees. The bill, as reported, exempts the employee organization representative from key ethics laws when the representative is acting on behalf of his or her organization.

The Office of Government Ethics reviewed these waivers and found them very troubling. In a letter addressed to the majority leader, Senator LOTT, minority leader Senator DASCHLE, and the floor managers of this bill, the Director of the Office of Government Ethics, Stephen Potts, described these conflict of interest waivers as unprecedented and inadvisable and antithetical to sound Government ethics policies and, thus, to sound Government.

I ask unanimous consent to have printed in the RECORD the referenced letter.

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

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, May 1, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: This Office has reviewed H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, as it has been reported by the Finance Committee and, we understand, is soon to be taken up by the Senate. At the request of both the majority and minority, we provided technical assistance to the Finance Committee staff with regard to drafting the language of provisions setting forth the ethical considerations for the Members of the Internal Revenue Service Oversight Board. We believe those provisions are written in a clear and technically correct manner.

However, one provision of the bill, the proposed 26 U.S.C. §7802(b)(3)(D), provides for waivers of applicable conflict of interest laws for one Member of that Board. We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

We understand and agree that the employees of the Internal Revenue Service should have an opportunity to be heard in any decisions that may affect them. As we stated in a letter to the Finance Committee, there are standard ways of allowing input from interested parties without allowing the interested party to be the actual decision-maker in a Governmental matter. It is the latter role that is fundamentally at odds with the concept that Government decisions should be made by those who are acting for the public interest and not those acting for a private interest. The one private interest that is being waived in each case for this Board Member is the one most fundamentally in conflict with his or her duties to the public.

On the other hand, we cannot recommend that the waivers be eliminated for the individual appointed to such a position. That elimination would leave this individual extremely vulnerable to charges of criminal conduct for carrying out many Oversight Board actions or for carrying out his or her private duties for the employee organization. The fact this vulnerability exists exposes the pervasiveness of the conflicts for an officer or employee of an employee organization to serve on the Oversight Board.

Rather, we recommend the elimination of the position on the Board that creates such inherent conflicts. The elimination of the position could be coupled with a requirement that the Board consult with employee organizations. While we think a reasonable Board would consult without that requirement, requiring consultation might provide some assurance to the various employee organizations that they will be heard.

The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience. Some may point out that certain provisions of these laws are waived by agencies quite frequently. That is true. Some of the laws anticipate circumstances where a restriction could be waived and set forth the standards that must be met to issue waivers. Agencies can and do issue such waivers, but the waivers must meet the tests set forth in the statutes. For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board Member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

In order to meet our recommendation, we believe the provisions of Subtitle B, sec. 1101(a) should be amended to eliminate proposed sections 7802(b)(1)(D), (b)(3)(A)(ii) and (b)(3)(D). All other references to an individual appointed under section 7802(b)(1)(D) should be removed and wherever a number of members of the Board is indicated (such as a Board composed of nine members or five members for a quorum) that number should be altered to reflect the elimination of this position.

We appreciate the opportunity to express our concerns and our recommendations. These are the views of the Office of Government Ethics and not necessarily those of the Administration. We are available to answer any questions you or any other Member of the Senate may have with regard to this letter or the conflict of interest laws. We are sending identical letters to Senators Daschle, Roth and Moynihan.

Sincerely,

STEPHEN D. POTTS,
Director.

Mr. THOMPSON. Madam President, waiving these conflict of interest statutes establishes a very bad precedent. We have an opportunity here to avoid a serious conflict of interest pitfall, and I hope all Senators will agree and approve adoption of this amendment.

Thank you, Madam President.

Mr. KERREY. Madam 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. KERREY. 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. KERREY. Madam President, I would like to speak for a minute on the amendment just offered by the Senator from Tennessee and the Senator from Alabama striking the provision in title I concerning the oversight board and specifically concerning the employee representative on that board, and even more specifically the language that will enable that board member to function on the board; that is to say, language which, by the way, is not precedent setting.

There are many other cases where people have been given protection from very specific areas of conflict of interest in order to be able to do their work. In this case, the only protection

against conflict of interest charges is postemployment, since the individual selected from the Department of Treasury is working for the IRS.

Certainly, we want the law to be written so they are able to go back to work with the IRS or do whatever work they had in connection with the employee's representative association without being prevented from doing so. So that is the only protection that this language provides.

There are really three sort of threshold questions that Members have to both ask and answer as they deliberate this particular amendment. The first is one that the Senator from Texas just raised a minute ago, which is skepticism about the nature of this board.

Is this board going to be able to get the job done? I believe strongly it is. It is not an advisory board. It is a board with a considerable amount of power and authority to guide the Commissioner of the Internal Revenue Service. It is a board that has been put together, under statute, to have the skills necessary to be able to advise the Commissioner on a variety of different things and to give the Commissioner input. The board will be making a budget recommendation to the Treasury Secretary. That is a considerable amount of power.

The board will forward three names to be Commissioner of the Internal Revenue Service to the President. The board can also instruct the President they believe the Commissioner should be removed from office. There are other powers enumerated in title I. Certainly one can be skeptical, as one always needs to be with any kind of a board. I may be proven wrong. I think this board will provide a substantial amount of guidance and assistance to the Commissioner. I think the powers that we have given this board are right.

I believe it is as well important to remember that what this legislation is attempting to do is create some balance in oversight. The executive oversight organization, this new board, should give taxpayers a sense that the IRS is more accountable, along with the taxpayer advocate provisions that are also contained in title I. However, it is important for us to make certain that Congress has the right amount of oversight.

The Restructuring Commission that met for over a year—Senator GRASSLEY and I were both on that Commission—we heard time after time after time the taxpayers, and the providers that are assisting the taxpayers, saying that the biggest problem is Congress. There is inconsistent oversight. There are six committees to whom the Commissioner must come to report. The IRS is not Sears and Roebuck; they have 535 elected Members who are the board of directors.

One of the great tests to discover whether or not we understand what the IRS is doing is asking yourself the question: Do we know what the IRS budget is? Do you know how much we appropriate on an annual basis? It is about $7 billion this year, against about $1.6 trillion of tax revenue. They collect 95 percent of all the revenue that this Congress authorizes. We authorize the moneys that are to be spent and we specify with our tax laws how that money is to be collected and who is to be exempted.

I made the point many times that we talk a great deal on this floor about the need for simplification. One of the most powerful witnesses that the Finance Committee had before us was an individual, a tax lawyer who helps taxpayers, who was pointing out some abuse in our Tax Code. He was saying to us, as long as you tax income, as long as you have a tax on income, it is likely, as income becomes more and more complicated, and more and more complex, it is likely the IRS is going to become more and more involved in making determinations whether or not an individual has voluntarily reported the right amount of income.

And we change our Tax Code. I guess 2 or 3 weeks ago, when the Coverdell IRS bill was passed—I do not want to reargue that bill, but no one can argue that that increased not only the complexity of the Code and requires the IRS to work harder, but we have asked them to now rewrite the Code. That is the 63rd change since 1986.

In addition to that, the IRS is going to have to make certain that people who claim that deduction, claim to be able to use that educational IRA, they are going to have to provide receipts. Because the law says that you can use the education IRA for any expense that is connected to the education of the child in the school, and thus we are going to have to have the IRS out there if something is claimed and they can be audited and have to produce all those records and produce proof. They are not being required to produce the proof and records by accident, Mr. President. They are being asked to produce the records and proof because we wrote a law that said they had to do it.

So one of the things we are trying to get with this oversight board is some balance and get to a point where both the executive branch and the legislative branch can reach agreement on what we want the mission of the IRS to be so they can make good investments in tax system modernization.

The Senator from Alabama is on the floor. He and I started this thing back in 1995 with our oversight efforts in appropriations. We saw that nearly $4 billion had been wasted in the tax system modernization. Every witness, public and private, that came before the Restructuring Commission said the reason, No. 1, is you do not know what you want to use the technology for. You do not get shared consensus. You do not get to a point where you agree—the Congress and the executive branch—what the purpose of the technology is going to be. And as the man said, "If you don't know where you're going, any road will take you there."

That is exactly what the IRS has been doing. They have been deploying technology in a very dysfunctional organization, and as a consequence the technology will not do what they promised us it was going to do.

So threshold question No. 1 is, do you think this new oversight board is going to get the job done? I think it will. I think it will dramatically change the kind of accountability taxpayers get, and especially if we combine that with new oversight requirements on the part of the Congress. I am confident that oversight board—in combination with new oversight requirements of the Congress—I am confident that oversight board will increase the accountability and the operating efficiency and provide the Commissioner the kinds of guidance that the Commissioner needs.

Threshold question No. 2 is, who do you want to be on the board? What sort of composition? What sort of makeup? There is very little disagreement. As I hear from colleagues, we ought to have people with private sector expertise. The Senator from Florida earlier came to the floor and asked for some change in the bill to put somebody with small business experience on this board. I think it is very important that we do so. Both Chairman ROTH and I agreed to accept that. That has been altered, accepted, incorporated into the language.

But in addition, Mr. President, we also heard from people who have gone through the restructuring that the IRS is going to go through. And make no mistake about it, Mr. Rossotti, with the new powers that Chairman ROTH has written into this bill that he will have, Mr. Rossotti has a lot of work to do. He is going to go from a three-tier geographical system that has 10 regional centers and 33 district offices—I mean a tremendously complicated geographical organization that started in 1952—he is going to go from that to an organization that is along functional lines: Small business, individual business, large taxpayer and nonprofit; four different functional categories.

There is going to be a lot of personnel decisions to be made and a lot of personnel changes that have to be made. In addition, if he deploys the technology correctly, as we insist he do, and as the electronic filing section of this title of this bill allows him to do, there is going to be a lot of personnel decisions that have to be made.

As we heard in the Restructuring Commission, if you are going to make that kind of tough Restructuring Commission, you are better off having a personnel representative on the board.

That is why the employee representative is on the board. We are not putting an employee representative on the board for political reasons, but putting one on the board to make sure you have an individual who can sell and who can persuade and can help get these kinds of restructuring decisions implemented and make certain that there is going to be a minimal amount of resistance on the employees' side.

We heard most eloquently from the new tax authorities in Australia that went through a very similar restructuring as we are doing here. And we took their example, as well as many other private sector people who talked about what happens when you restructure, to say that we ought to have an employee representative on the board.

Now remember, this board lasts for 10 years. It sunsets after 10 years. Congress may decide that it does not need the board at all anymore, may revisit threshold question No. 1 and threshold question No. 2. The composition of the board can be revisited at that time as well. We may, after these restructuring decisions are made, after you have the IRS reorganized along functional lines, and after the technology has been fully invested in and implemented, this Congress may decide that there is no need to have the representative of the employees' association on this board. I feel very strongly going in that we need it. That is a threshold question.

You may find you don't want it. You may have a legitimate belief that, no, that ought not to happen. Fine. But if you are going to have that person on the board—and I believe a majority of this Senate wants an employee representative on the board—if you are going to have an employee representative on the board, make it possible for that individual to do the job.

Why would you put somebody on the board and then neuter him with a statute that says there will be a conflict of interest? That is what this conflict of interest language does. It does not remove this representative from all the other conflict of interest laws in every one of the other private sectors that people have to abide by. It is not a precedent. There are hundreds of individuals throughout Government who have been given similar kinds of protection in order to be able to do their job.

I urge colleagues, as they come down and consider this, because it will be one of the complicated legal, constitutional issues, you have to walk yourself through three questions:

No. 1, do you think this oversight board will do the job? If you don't support the oversight board, it almost doesn't matter what the composition is.

No. 2, do you think you ought to have an employee representative on there to be able to get the support needed to do the tough personnel decisions that this Commissioner will have? Look seriously at new authorities we are giving the Commissioner. They are almost unprecedented. We are giving this Commissioner of the Internal Revenue Service, I think quite appropriately, new authorities to be able to hire, new authorities to be able to fire.

The distinguished Senator from Texas earlier indicated he was going to offer an amendment adding to the list of reasons that an employee can be fired. There are specific lists—I think it is five or six items—that if an employee of the IRS does something, they can be fired for cause. You don't have to go through the normal personnel procedures. Just on the face of it, say if an employee does something like that, they ought to be terminated.

The Commissioner has substantial new authority. They will need the full participation and cooperation of the employees of the IRS in order to be able to get it done.

I come to the threshold question No. 2 and say absolutely yes, we ought to have an employee representative on this board. If you answer that question yes, you have to make certain that the laws are written so the individual can do the job.

What we will have, unfortunately, is a debate about the conflict of interest stuff before we have done whether or not the person ought to be on the board. It is far better for us to take up the amendment that will be offered by some that we not have a Treasury employee representative on the board at all.

If that is your position, if that amendment is successful, we strike the employees representative, the conflict of interest thing is irrelevant. But if we end up with an employee representative on the board—to pass this amendment, which would make it impossible for that representative to do their job —it seems to me to put the cart before the horse and do something I think no Member wants to do, which is basically creating something that will not be able to do the job that we wanted to do.

I hope Members will vote against the Thompson-Sessions amendment. I hope they will listen to the arguments that will be offered in detail by many people who have great experience with conflict of interest law. Listen to the arguments of Senator LEVIN. Listen to the arguments of Senator GLENN. Listen to the arguments of those who understand how it is that we deal with conflicts of interest. We deal with them all the time.

This language is in response to the Office of Government Ethics concerns about this position. They, frankly, take the position they don't want an employee representative on there under any circumstances, no matter what you do. Take that position, but that is a policy decision that we have to make. We have to decide, Do you want an employee representative on? I say yes. Once you have the employee rep, we write the law so the individual is able to do the job. That is what we are attempting to do with the language that the distinguished Senator from Tennessee and the distinguished Senator from Alabama are proposing to strike.

I hope this amendment is defeated. I yield the floor.

Mr. SHELBY. What is the pending business?

The PRESIDING OFFICER (Mr. FAIRCLOTH). The amendment proposed by the Senator from Tennessee and the Senator from Alabama.

Mr. SHELBY. Mr. President, just for a few minutes I will also talk about the IRS reform legislation and a suggestion that I have that I think would improve it. I am at this point in time well aware that the pending business is another amendment, so I will only speak on this subject if I can.

I think perhaps the most important power given to Congress in the Constitution is bestowed to Congress in article I, section 8, the power to tax. This authority is vested in Congress, as the President and Senate know, because as elected representatives, Congress remains accountable to the public, and when they determine tax policy, this should be more so.

Unfortunately, the Internal Revenue Service effectively has the power to raise taxes through the use of its interpretive authority. Therefore, what I want to talk to the Senate and my colleagues about this afternoon for a few minutes is an amendment, which I am not offering now but I will in a future time, which will build upon past legislative initiatives that afforded protections to taxpayers from attempts by the Internal Revenue Service to bypass Congress and raise taxes through the regulatory decrees.

In 1996, Congress passed the Congressional Review Act, which provides that when a major agency rule takes effect, Congress has 60 days to review it. During this time period, Congress has the option to pass what we call a disapproval resolution. The Stealth Tax Prevention Act would expand the definition of a "major rule" to include any IRS regulation which increases Federal revenue.

For example, if the Office of Management and Budget finds that the implementation and the enforcement of a rule has resulted in an increase of Federal revenues over current practices for revenues anticipated from the rule on the date of the enactment of the statute under which the rule is promulgated, the rule will be found to be major in scope. Therefore, the amendment, or the legislation that I would like to see us adopt, sooner rather than later, would be to allow Congress to review the regulation and to prevent

back-door tax increases on hard-working Americans.

An excellent example of this occurred last year when the Internal Revenue Service attempted to increase taxes through the regulatory process. In this instance, the IRS disqualified a taxpayer from being considered a limited partner if they "participated in the partnership's business for more than 500 hours during the taxable year." The effect of this redefinition would have been to make these individuals subject to a 2.9 percent Medicare tax. President Clinton had included the identical provision in his universal health care legislation in 1994. When the administration's plan failed, the IRS attempted to subject limited partnerships to the same tax increase by using its regulatory powers.

I believe the intent of the Founding Fathers was to put the power to lay and collect taxes in the hands of the elected Members of Congress and no one else—not in the hands of the bureaucrats who are shielded from public accountability, but in the hands of Congress, who is accountable to the American people.

The proposed Stealth Tax Prevention Act that I want to see become law would be particularly helpful in lowering the tax burden on small business, which suffers disproportionately from IRS regulations. I believe Americans are paying a higher share of their income to the Federal Government currently than at any time since the end of World War II. Allowing bureaucrats to increase taxes even further at their own discretion through the regulatory process, through interpretation of the Tax Code, I believe is intolerable.

I believe this legislation is right and should be passed, and it is clearly in the spirit of the IRS reform legislation. This type of legislation would help rein in the power of the Internal Revenue Service and would leave the tax policy where it belongs, to elected Members of Congress, not unelected and not unaccountable IRS bureaucrats. I strongly urge my colleagues to get with me, to join me in the future in an effort to join the National Federation of Independent Business, NFIB, and the National Taxpayers Union, as well as a lot of my colleagues who would be supporting this type of legislation.

The bottom line is that the stealth tax legislation that I have been talking about would improve accountability and it would put it where it belongs—in the hands of Congress and not bureaucrats. I think it is something we have to consider and I believe we will consider in the future. I have talked to the chairman of the Finance Committee about this, as well as other members of the Finance Committee, and they seem to be very interested in this. I am going to try to work with them in the future.

I yield to the chairman.

Mr. ROTH. Mr. President, I say to the distinguished Senator from Alabama that I appreciate the fact that he is not raising it on this legislation before us, because it is not relevant. But I also sympathize very much with the problem he has identified. I, indeed, would be happy to work with him because I do not think it is appropriate to legislate by regulation. I think that is what he seeks, and that is what I would be pleased to work with him on in the future.

Mr. SHELBY. Mr. President, I appreciate the chairman's statement. I have worked with him before. I just think it is very, very important for the American people that we, as Members of the U.S. Senate and House, should be the people who lay taxes, or reduce taxes, according to the Constitution. But that is not what is happening. The Internal Revenue Service is doing it through the back door. We should do things through the front door because that is the American way, and I think it is accountable. I have worked with the distinguished Senator from Nebraska on this for several years and got some of this going at his suggestion.

I yield to the Senator from Nebraska.

Mr. KERREY. Mr. President, I agree with Senator ROTH. This is a very important matter and issue, and I pledge my full cooperation to work with the distinguished Senator from Alabama as well.

I call to your attention, with the National Taxpayer Advocate, I think, we are going to get pretty close to this issue. In addition, by organizing—and the law requires it—the IRS along functional lines, we will now have small business organized as a single category.

One of the things Mr. Rossotti has already indicated is that he is likely to take some of the secondary recommendations that our Commission made. We have large numbers of relatively small businesses out there who expend a lot of money and don't pay any taxes at all. They have to comply with the code. He believes there may be some opportunity for us to significantly relieve a number of individuals—millions, in his words—that might otherwise have to fill out a form. So I think what the Senator has brought to our attention is a very important problem; it is taxation without representation. It is frustrating. I think we are going to get more accountability with this law, and we are going to have vehicles through the taxpayer advocate to do the very thing the Senator is talking about. I appreciate it, and I pledge my full cooperation to work with him on this.

Mr. SHELBY. Mr. President, I will wrap it up on this point at this time. I am certainly not going to wrap up this issue. I think this issue is just now becoming ventilated here and shared with my colleagues here in the Senate. A lot of us have known this for a long time. But the IRS reform bill that Senator ROTH and Senator KERREY have been pushing here is about, among other things, the agency overstepping its authority and, in a lot of instances, there are horror stories of abusing taxpayers. But I can't think of a worse way to abuse taxpayers than when the IRS raises taxes through the back door, by the regulatory process, and then we think, how did they do this or why did they do this? Why did we give them the authority to do this? Yet, ultimately, Mr. President, we are accountable to the voters, as we should be.

I think this is relevant. I am not going to offer it now in deference to the chairman and the Senator from Nebraska. But I want to make it clear that this is just the beginning of this fight because this makes a lot of sense to the American people.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to speak to the point that the Senator from Alabama just raised. That point would be one of agreement. It would be to say that I have had the experience myself of having to get corrective legislation through. People would be surprised to know that a certain tax law that was in place legally for a long period of time was changed by a faceless bureaucrat, who increased the revenue and taxed somebody in a way where they hadn't been taxed before. And then we have a situation where those of us who want to correct what this faceless bureaucrat did find ourselves not only getting the bill written, finding all of the cosponsors that one needs, but also, then, when you actually get to the point of offering the amendment, you have to come up with an offset because there is supposedly a cost, not from the original legislation, but because some faceless bureaucrat is reinterpreting a tax law, which reinterpretation brings more revenue in; and then, if we want to go back to where Congress originally was, we have to dig up revenue and have an offset to correct something that Congress never intended in the first place.

So you can see that what the Senator from Alabama is trying to do is just to bring a little common sense to the Washington nonsense. I applaud him for doing it and also applaud him for not doing it on this bill. I commit myself to working with him. I would like to, at this point, ask him to see that I am added as a cosponsor to the original bill he put in, which has a number already.

Mr. SHELBY. Will the Senator yield?

Mr. GRASSLEY. Yes.

Mr. SHELBY. I would be glad to add you as a cosponsor. I believe we are going to pick up a lot of Senators on both sides of the aisle, I hope.

Mr. GRASSLEY. Mr. President, we are just talking about common sense. In other words, Congress passes a law. We want to tax at a certain level and a certain group of people. A lot of times those laws have been in place for a long period of time. Congressional intent was followed for a long period of time. And then there is somebody sitting in some bureaucracy—in this case, the Treasury Department—that says, oh, no, that is not what Congress intended; this is what they intended. Then he changes it. We don't have a process for reviewing that. This legislation will give a process for that review. But we will not find ourselves in a position of having to correct something that is contrary to congressional intent, but also with the idiotic situation that we somehow have to come up with revenue to offset a change of policy that we never intended in the first place.

So I applaud the Senator and thank him for not bringing it up at this point.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Alabama.

Mr. SESSIONS. Mr. President, first, I would like to say that I appreciate very much Senator SHELBY's suggestion for reform of the unilateral ability of IRS to increase taxes. I would like to ask my fellow Senator from Alabama if he would allow me to be a cosponsor of that.

Mr. SHELBY. Will the Senator from Alabama yield to the other Senator from Alabama?

Mr. SESSIONS. Yes.

Mr. SHELBY. I would be happy to do that. I think what we need to do in the next few weeks, working together with some of my colleagues like Senator KERREY and others on the other side of the aisle, is to let our colleagues know what this is and what it does. If we pass this legislation in the future, it is going to be another step toward accountability for us with the American people. I think it is very possible. I will be glad to add the Senator on.

Mr. SESSIONS. I thank the Senator very much.

Mr. President, I would like to first congratulate Senator ROTH and his committee on their effort to reform the Internal Revenue Service. I think they have made great progress, and the bill is to be greatly praised, is long needed, and I am delighted to see where we are discussing this matter.

I do, however, feel that it is important to join with Senator FRED THOMPSON of Tennessee, who spoke earlier this afternoon on his proposal to not waive applicable conflicts of interest laws with regard to individuals who sit on the IRS Oversight Board. I do not believe this is the appropriate thing to do. I believe we need to deal with this forthrightly. It should not be allowed to happen.

Mr. President, I spent almost 15 years as a Federal prosecutor. I prosecuted criminal cases on a regular basis. I personally tried judges and public officials for fraud and corruption. My office did many of those cases. It was an insidious thing as it occurred.

We have crafted over the years a series of laws that are designed in such a way that those laws protect the public from conflicts of interest and other types of unhealthy relationships that would put that person in office in a position in which his total fidelity is to anything other than the government which he represents. That is what we are looking for. Somewhere in the Book of Ecclesiastes the preacher said "A bribe corrupts the mind." A conflict of interest corrupts the mind. The person is torn. You cannot serve two masters. You can only serve one master. A member of a board of the oversight of the Internal Revenue Service ought to have a clear mind with one motive, and that is to improve and enhance the effectiveness of that institution which is fundamentally necessary. At least under the present Tax Code it is necessary.

So I believe this is an important matter. I would like to share with the Members of this body the Code sections of the law that would apparently be violated and could potentially clearly be violated by an appointment of the kind suggested here; that is, a member of the Internal Revenue Service Union on the oversight board.

This is suggested in this fashion: It follows under the rubric of bribery, graft, and conflict of interest in the United States Code. It is title 18 U.S. Code, section 203. It makes it a crime to seek himself or agree to receive any compensation as an agent or attorney for a third party when a person is working as an officer for the Federal Government.

We are talking about appointing a member to the board representing the Federal Government helping us to develop an effective Internal Revenue Service while at the same time receiving compensation as a union official in an organization that may well have a conflict of interest with the Internal Revenue Service. They are advocates. There is nothing wrong with that. Union members are advocates. Their commission, their heart and soul is committed to getting the maximum return for their members. It is not the same interest as a member of the board should have, which is in the public interest. You can't serve two masters.

I suggest that is a potential violation of the law if this member were to be on the board. It is not theoretical. We are talking about real conflict.

Section 205 of title 18 of the Criminal Code makes it a crime for any Federal employee to appear as an agent or attorney on behalf of anyone in a proceedings to which the United States is a party.

In other words, you can't have a Federal employee of the Government appearing in an action against the Government. Frequently the union is contesting with the Government. So now we have a person on one side of the lawsuit supposedly having his responsibilities solely to the best interest of the public of the United States at the same time being paid to represent his union members who may well be standing against what that interest is.

Title 18 of section 207 makes it a crime to make certain communications to an official of the Federal Government on behalf of any other person if the communications are made with intent to influence.

It makes it a crime to make certain communications to an official of Government on behalf of any other person if they are made with the intent to influence. This section is a dangerous section for any board member who is an officer of the union. It was designed really to deal with post-employment communications. But in this instance he would obviously be making communications both ways.

Title 18, section 208, is the general conflict of interest provision for the United States. It makes it a crime for a Federal employee to participate "personally and substantially" in any way in a matter where he himself, his family, a partner or others have "a financial interest."

This individual is paid by the union. It is in his financial interest to do the best bargaining he can, the most money and benefits he can for his union members. Yet he is serving on the offer side, the board, that is supposed to be protecting the public interest.

I would say, first of all, that I see there is a real danger that this member, if appointed as suggested, would in fact be in violation of any one or perhaps all four of those criminal statutes. If any of these violations are committed—and there are penalties of up to 1 year in jail for violation of them, and if any of them were done willfully the penalties go up to 5 years in jail, and are a felony. What is willful? It is knowingly and with intent to violate the law. I would say, first of all, we have four potential violations of criminal law by this appointment.

The Finance Committee to its credit recognized there was a problem. Well, they should have. There is a problem. And it is not theoretical. It is very real because the member they want to put on this board has a conflict of interest.

They say, "Well, let's just change this law. Let's pass as part of our bill a proposal to exempt them from it, and just say it won't apply to this nominee to the board. And that would solve all of our problems." Well, I wish it were so simple that we could do that. You

can call a cat a dog but it is still a cat. You can say there is no conflict of interest but it is still there under these circumstances. That is what the law was passed for.

I think we need to give some real credit to the Office of Government Ethics.

Mr. President, I serve on the Senate Ethics Committee. We hear complaints periodically. Many of them are not well founded at all. But we go over them one by one. Staff people analyze them. We read the Code and we see if we have a conflict of interest. If we do, we deal with that. A lot of Senators have been severely damaged because of founded ethics complaints against them over the years.

But I would just say to you that it is important for this institution to make sure that what we are doing is consistent with the highest possible standards of ethics and law in this nation.

The Office of Government Ethics took the extraordinary step on May 1st of writing a letter dealing with this special project; this very special thing. This is what they said.

First of all, they said the criminal conflict of interest laws should not be viewed as impediments to good government. What does that mean? Criminal conflict of interest laws should not be viewed as an impediment to good government. In other words, what they are saying is the criminal ethics laws are for good government. They are not trying to stop good government. They are trying to stop conflicts of interest that lead people in the position that they cannot effectively carry out their duties.

They go on to say—I am quoting directly—these laws "are there for a purpose and should not be waived for mere convenience."

Mr. President, I totally agree. I know it sounds like, well, we just have a problem. This is just a technical thing. We can just pass this law and exempt this board member from it, and that will be the only board member on the Commission exempt from the ethics law, the only one, but we will just do that because, well, it is convenient. We would like him to be on the Board, and we will just waive the ethics law. But you can't do that and expect it to go away. There is a conflict of interest that the law legitimately was set up to prohibit to make sure that we have an uncorrupted individual on that board. A member who does not have influences on them financially or otherwise that would cause them to do acts that are not in the public interest. I believe very sincerely that we have to deal with this issue and that it will not go away.

We must not do this. It would be a downward slope, a retreat from high standards of ethics—actually, a retreat from basic ethics. This isn't some gray area; this is flatly prohibited by present criminal law for which you can get 5 years in the slammer. U.S. attorneys are prosecuting people who do these kinds of things with these kinds of conflicts. To pass a law to say everybody else has to adhere to them except for one individual because he or she is special is a big mistake.

I can see how people may have not thought it through. I hope all Members of this body will give it most serious thought. It would be a mistake for us to blithely go along and think this waiver of the ethics law is just a mere technicality and see it as somehow an impediment to good Government. As the Government Ethics Office said, it is not an impediment to good Government; it is good Government. And it is put there for a purpose and should not be waived for mere inconvenience.

Mr. President, I certainly know that the members of this committee, the Finance Committee, who worked so hard, are determined to reform the Internal Revenue Service. I know they want to do what they can. I know they want the influence of the IRS's members who have insight into how this enterprise ought to be operated. They have some good insight, and they have made some good, constructive comments to this legislation. But there are other ways, as the Government Ethics Office suggested, to allow them to have input. There are other ways to allow them to be able to shape any kind of rules, regulations or reforms that are made. There are ways to do this without giving up the fundamental principle that a man or woman can only serve one master, not two, and should not be holding public office with a clear conflict of interest.

I thank the Chair. I urge my fellow Senators to vote against this proposal.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, I find myself this afternoon speaking against a lot of my friends with whom I generally agree most of the time, and so I am somewhat chagrined that I have to oppose my good friend from Alabama and the position he has just taken as he spoke in favor of the Thompson amendment. I rise in opposition to it.

This amendment is not about conflict of interest laws. That is not its intent. It is about having an employee representative serve on the oversight board. I believe very strongly that we must have the employee representative on this oversight board. As you have already heard Senator KERREY say, he agrees with that. We both had the honor of serving on this National Commission on the Restructuring of the IRS. We were the only two Senators to do so. I think our year's experience there taught us something, and that is the value of having people who speak for and work with the employees, other than in a management capacity, to show their good intent, that they want Government to function in an efficient manner and to serve the customers well.

That would be true of Rob Tobias, who is the current President of the National Treasury Employees Union. He served with us on this Commission. I was very impressed with him and with his work. With his hard work and support, the Commission, by a very strong majority—we probably would have had a majority otherwise, but such a slim majority that I don't feel we would be here with such a strong piece of legislation as we do now—issued a report that calls for far-reaching reforms at the IRS. The employees organization and their representative contributed substantially to this report and to making sure there were strong, substantive recommendations.

I believe that he or another employee representative will have the same effect while serving on the IRS Oversight Board. He and the members of his organization want real change at the IRS. The IRS employees care about where they work and how they serve the people. They want the IRS to run smoothly and their customers to be happy with the service they receive. They are caught up today in this culture of intimidation, a culture that says, "We don't care anything about the taxpayers, we don't care how we treat the taxpayers," whether as a taxpayer or just as an American citizen who is doing business with them. I believe they want to take pride in where they work and the actions of the Internal Revenue Service. The employee representative will help ensure that the oversight board makes this happen.

For this reason, Senator KERREY and I included an employee representative on the IRS Oversight Board when we introduced the first IRS restructuring bill last July, S. 1096. For this reason, we offered the amendment that put the employee representative back on the oversight board during the Finance Committee debate because the chairman's mark did not have this in it.

Now, remember, the House of Representatives passed their bill by a vote of 426 to 4—426 to 4—and that bill in the House had an employee representative serving on the oversight board. We have strong support for this principle. If we are going to have an employee representative then on the oversight board, we need to let him do more than just serve the coffee while the meetings are going on, because if we do not have this language in the bill that the Thompson amendment wants to take out, he would not have the same power that we give to other members of that oversight board. Otherwise, we lose the benefit of that expertise. Otherwise, we lose the benefit of the enthusiasm of the organization and its representative to make real change at the Internal

Revenue Service. Let me say, in short, otherwise, we are just simply wasting our time. This is a part-time advisory board. Consequently, it is a good place to use his advice.

The bill before us, as drafted, sets up additional requirements that the employee representative must meet. I would like to read from the committee report.

The employee representative is subject to the same public financial disclosure rules as a private life board member. In addition, the employee organization is required to provide an annual financial report with the House Ways and Means Committee and the Senate Finance Committee. Such report is required to include the compensation paid to the individual employee by the employee organization and membership dues collected by that organization.

In addition, this person must have been confirmed by the Senate of the United States before serving on the IRS Oversight Board. These laws have been waived for similar purposes before. This is not new; it is not landmark. The point being made— that everybody should abide by the same laws—albeit true, but remember, as Senator KERREY said, we make those laws. We are making this policy to make this person an effective member of the IRS Oversight Board.

I conclude by saying that the conflict of interest laws are designed to alleviate hidden conflicts of interest. Now, this employee representative has no hidden agenda. We know who he works for. And guess what. The employee representative on the board works for an organization that represents employees. Again, the issue is not waiver of laws. The issue is having an employee representative being able to serve, and effectively serve, on the oversight board. This, of course, is a back-door way, if this amendment were to be adopted, to get rid of the employee representative. Or, if he wasn't gotten rid of, it would be making him an ineffective member of the oversight board, gutting the main intent that we have of his inclusion on the board, because we think there can be a contribution, a real contribution, made.

So, in my opinion, if my colleagues would accept my year's work on this issue, being a member of this IRS Restructuring Commission, I ask my colleagues to vote against the Thompson amendment. After my work on the National Commission on Restructuring, I think, regarding the bill we have, and even a much stronger bill that we have now because of the work of the Senator from Delaware on the legislation, improving it very much as a result of the committee hearings, we need to move forward. This would really cause problems if this person is not able to serve on this board.

So I emphasize again, this was in the House Ways and Means bill. It was approved by the House of Representatives by 426 to 4, to have an employee representative on the board.

I think all the arguments are very strong. I make no apologies for those arguments and would want to have this amendment defeated, the Thompson amendment.

I yield the floor.

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

Mr. ROTH. Mr. President, first, I would like to say I regret I cannot agree, on this particular issue, with my distinguished friend from Iowa, for whom I have the greatest respect. We are, more often than not, on the same side of an issue. But, because of the overwhelming arguments, at least in my judgment, to the contrary, I must rise in strong support of the amendment offered by the Senators from Tennessee and Alabama.

This amendment would strike the special waiver of all the criminal conflict of interest laws that were necessary to accommodate having an IRS employee representative on the IRS oversight board. Let me say that what I say today in no way is in disrespect to the individual who would probably be the employee representative, Mr. Tobias. By all reports, he is a most dedicated, informed man. But, as I said, the problem is that this amendment would strike the special waiver of all the criminal conflict of interest laws that were necessary to accommodate having such a representative, and waiving all the conflict of interest laws is bad policy. It establishes very bad precedent.

When this issue was debated during the Finance Committee markup session, the Deputy Director of the Office of Government Ethics, the office that was set up and created to ensure that conflicts of interest do not arise in the Government, testified that she was not aware of any case where all the criminal conflict of interest laws have been statutorily waived for a single person.

Last Friday, the Director of the Office of Government Ethics, in identical letters to the majority leader, the minority leader, Senator MOYNIHAN, the ranking member, and myself, said that waiving the conflict of interest laws for one board member, "is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable."

Let me repeat, this statement that it is inadvisable comes from the Office of Government Ethics.

I ask unanimous consent a copy of this letter be printed in the RECORD.

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

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, May 1, 1998.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: This Office has reviewed H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, as it has been reported by the Finance Committee and, we understand, is soon to be taken up by the Senate. At the request of both the majority and minority, we provided technical assistance to the Finance Committee staff with regard to drafting the language of provisions setting forth the ethical considerations for the Members of the Internal Revenue Service Oversight Board. We believe those provisions are written in a clear and technically correct manner.

However, one provision of the bill, the proposed 26 U.S.C. §7802(b)(3)(D), provides for waivers of applicable conflict of interest laws for one Member of that Board. We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

We understand and agree that the employees of the Internal Revenue Service should have an opportunity to be heard in any decisions that may affect them. As we stated in a letter to the Finance Committee, there are standard ways of allowing input from interested parties without allowing the interested party to be the actual decision-maker in a Governmental matter. It is the latter role that is fundamentally at odds with the concept that Government decisions should be made by those who are acting for the public interest and not those acting for a private interest. The one private interest that is being waived in each case for this Board Member is the one most fundamentally in conflict with his or her duties to the public.

On the other hand, we cannot recommend that the waivers be eliminated for the individual appointed to such a position. That elimination would leave this individual extremely vulnerable to charges of criminal conduct for carrying out many Oversight Board actions or for carrying out his or her private duties for the employee organization. The fact this vulnerability exists exposes the pervasiveness of the conflicts for an officer or employee of an employee organization to serve on the Oversight Board.

Rather, we recommend the elimination of the position on the Board that creates such inherent conflicts. The elimination of the position could be coupled with a requirement that the Board consult with employee organizations. While we think a reasonable Board would consult without that requirement, requiring consultation might provide some assurance to the various employee organizations that they will be heard.

The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience. Some may point out that certain provisions of these laws are waived by agencies quite frequently. That is true. Some of the laws anticipate circumstances where a restriction could be waived and set forth the standards that must be met to issue waivers. Agencies can and do issue such waivers, but the waivers must meet the tests set forth in the statutes. For those conflicts laws that do provide for waivers (not all do), we believe

that it would be extremely difficult for a reasonable person to determine that the interests this individual Board member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

In order to meet our recommendation, we believe the provisions of Subtitle B, sec. 1101(a) should be amended to eliminate proposed sections 7802(b)(1)(D), (b)(3)(A)(ii) and (b)(3)(D). All other references to an individual appointed under section 7802(b)(1)(D) should be removed and wherever a number of members of the Board is indicated (such as a Board composed of nine members or five members for a quorum) that number should be altered to reflect the elimination of this position.

We appreciate the opportunity to express our concerns and our recommendations. These are the views of the Office of Government Ethics and not necessarily those of the Administration. We are available to answer any questions you or any other Member of the Senate may have with regard to this letter or the conflict of interest laws. We are sending identical letters to Senators Daschle, Roth and Moynihan.

Sincerely,

STEPHEN D. POTTS,
Director.

Mr. ROTH. Senators note importantly, I think, how we are a nation of laws and we are, indeed, a nation of laws. When it comes to Government service, perhaps the most important set of laws is the criminal conflict of interest laws. Many of these laws trace their origins back to the Civil War era. They were enacted in the 1860s in response to misconduct in the procurement process. These laws embodied the principle that a Government servant, even a part-time servant, has an overriding responsibility to serve the best interests of the American public. The punishment for violating this public trust includes imprisonment of up to 5 years and penalties of up to $250,000. The severity of the penalties reflects the critical importance that these laws play in our Government. They serve to protect the public's trust in Government employees and the laws are designed to prevent Government employees from taking actions that could jeopardize this public trust.

Let me give a few real-life examples of what could happen if the conflict of interest laws are waived for the IRS employee representative. Just suppose that a representative of the IRS employees union serves on the oversight board and the union files a lawsuit against the oversight board. If the conflict of interest laws are waived, the union representative could work with the union in preparing the lawsuit and at the same time—at the same time—work with the oversight board in defending against the lawsuit. Taxpayers would be outraged by this conduct, and rightfully so.

Just suppose the union is asked to make a formal presentation to the oversight board. The union representative can make the formal presentation and then participate in the oversight board's deliberations with respect to the presentation. What message does this send to the taxpayer? What does this do to the public trust in Government employees and in what Congress is trying to do to improve the IRS?

Let me quote again from the letter by the Office of Government Ethics:

The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience.

Mr. President, the criminal conflict of interest laws should not and must not be waived for a single individual. To do so would seriously erode the sacred trust that the public has placed in its employees to do what is in the Nation's best interests. For these reasons, I strongly support this amendment and I urge my colleagues to do the same.

I yield the floor.

Mr. KERREY addressed the Chair.

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

Mr. KERREY. Mr. President, again, I say to colleagues there is a three-part test that one has to go through in this regard: A, do you want an oversight board; B, who do you want on the board; and, C, how are you going to deal with apparent conflicts of interest?

The conflict of interest issue is a very serious issue and, indeed, our committee, in order to confirm Mr. Rossotti, had to deal with that. We wrote an agreement, a letter, I believe, of understanding between Mr. Rossotti, a private sector individual with significant private sector interests who was willing to come in and serve his country in the Government.

I talk to colleagues all the time about one of the problems we have in Government today is it is getting harder and harder to get anybody to serve. Why? Because there is a perception that as soon as you come in and work for the Government that somehow you are going to be the crook.

I would be real careful with some of the rhetoric on this particular issue. We made an exception with Mr. Rossotti as a consequence and concerns about conflict of interest, and we didn't ask the Office of Government Ethics to comment on him, but we did on this one because many in the committee don't like this idea of having an employee representative on the board, nor does Government Ethics.

Let me talk about this idea of conflict of interest. According to the Office of Government Ethics, at least 609 exemptions under section 208(d)(1) were granted in 1997. Why? It is very important to understand. Why did we grant an exemption? The answer is because we have an interest. There is an important interest involved here, something that we want to do. So we find ourselves saying the interest is not so substantial as to be deemed likely to affect the integrity of the services which a government may expect from such officer or employee. That is the standard we use.

There were 609 exemptions granted because we have an interest in making certain that something gets done. That is what we have here. One of the worst excuses—I used to be in business before I got into politics. One of the reasons I got into politics is I got worn out listening to people say, "I know what you are asking for is right, but, gosh, if I have to do it for you, then I have to do it for everybody."

There is nothing more frustrating than to have somebody say, "I don't want to set a dangerous precedent here."

We need to decide what is right. Is it in the Nation's interest in an effort to restructure the IRS that is going to require significant and, I argue, traumatic personnel decisions, to have a representative of the Treasury employees' association on there? They represent 95 percent of over 100,000 employees. And we answered yes. The House answered yes. The Restructuring Commission answered yes, because there is an interest that we have.

Do we waive all conflict of interest requirements? Members should remember, every member of this board has to be recommended by the President and confirmed by the Senate. We all know around here, you can file a hold on anybody for any reason you want. If there is a conflict of interest, file a hold. That individual is likely never to get confirmed. In addition, for cause this individual can be removed at any time. The President can remove the individual from the board as a consequence of something they see they don't like, something they see they view as a perception of a conflict of interest, let alone a real conflict of interest.

Lastly, I will say if this individual is guilty of a conflict of interest, there will be charges filed against him or her and, indeed, every single member of this board is going to have to file an annual report indicating what their financial holdings are in order to avoid a conflict of interest.

Again, we all understand it is getting increasingly difficult to get people to serve because of the invasive nature of the examination. Talk to a friend of yours who has had an FBI background investigation. Gosh, they are out there talking to people you knew in the fourth grade. You wouldn't want to talk to people I knew in the fourth grade to find out whether I am going to be able to serve on some board or commission.

Let me just list for colleagues who are worried about this conflict of interest—we decided there is an overriding interest to have an employee representative on there as a consequence

of the tremendous and traumatic changes that are going to occur over the next couple of years as the new authorities of this Commissioner are used to reorganization and restructure the IRS.

In addition, this representative is going to be required to have full, public, financial disclosure by the employee organization represented. All members of this oversight board will be required to do that. In addition, the employee organization is required to file detailed financial information with the House Ways and Means Committee and the Senate Finance Committee. The information would include membership dues and compensation of all employees.

In addition, it requires the employee representative to be subject to all the conflict of interest statutes applicable to special Government employees, except to the extent they apply to the employee organization.

Mr. President, as Members no doubt know, we have a bill and a thing called a report. It says, "The Internal Revenue Service Restructuring and Reform Act of 1998, April 22, 1998.—Ordered to be printed; Mr. ROTH, from the Committee on Finance, submitted the following Report."

This report describes the rationales and reasons for doing all these things. Let me read to colleagues who are wondering about this thing and really whether or not you want an employee representative on this board. As I said, if you do, you have to give that individual the authority and power to be able to do something, and we have made a judgment as a consequence of that overriding interest that we are going to write language in here that deals with apparent conflict. It doesn't waive all other conflicts, as I have just tried to address. But even the report does that. Let me read it to you:

> In general, the bill provides that the employee representative or Board member is subject to the same ethical conduct rules as private-life Board members.

Let me repeat this, because there is an inference in some of the statements down here that somehow we are waiving all conflict of interest rules. Not true. This individual is going to be subject to the same ethical conduct rules as private-life board members.

> However, the bill modifies the otherwise applicable ethical conduct rules so that they do not preclude the employee representative from carrying out his or her duties as a Board member and his or her duties with respect to the employee organization.

That is all we are doing. We say there is an overriding interest. We have to make sure the employee can carry out their job, so we provide specifically language in here that enables them to do it. Otherwise, why put them on the board?

> In particular, the employee representative is not prohibited from (1) representing the interests of the employee organization before the Federal Government; (2), acting on a Board matter because the employee organization has a financial interest in the matter.

They are precluded from conflicts dealing with procurements. They are precluded from taking bribes. They are precluded from all the other things that other board members are precluded from doing. All the rest of the things that all the board members are precluded from doing, this individual will be as well. Indeed, in the footnote, it says:

> Certain limitations to this exception to the otherwise applicable ethical rules would apply.

The rules pertaining to bribery would continue to apply. In addition, the representative would be acting on a matter in which he or she has a financial interest.

If some U.S. attorney, some prosecutor wants to bring charges against any member of this board for violating conflict of interest statutes, they are going to be able to do it. Everybody who has asked, whether it is by this President or future Presidents, "Gee, Mr. and Mrs. Jones, would you be willing to serve on this board?" They understand what is at stake. They understand the nature of American politics today. They understand if you walk into the arena willing to serve your country, you may find yourself saying, "God, I wish I never said yes. All of a sudden I am more miserable than I thought I ever would be, because somebody has an ax to grind or grudge to fulfill is going after me all of a sudden."

We have made a decision that we think as a result of the tremendous decisions that are going to have to be made by the Commission to restructure an organization that has 100,000 human beings—these are family people; these are people who have good jobs and are trying to get the job done. All they are doing is trying to execute our law.

One of the most amusing things down here is to hear people talk about the IRS as if they think it is a Sears and Roebuck or some private organization. It is like the kiss of the Spider Woman. We are the creator of the IRS. We write the laws here.

In response to the OGE's concerns, we put language in here, and even OGE says we have adequately taken care of it. They just don't want an employee representative on there at all, no matter what you do with the law. No matter what you do with the language of the law, they are going to take the position that an employee representative shouldn't be on there.

Fine, let them take that decision. We made the decision we want that employee representative on there, and once we made that decision, we have to make certain we deal in a reasonable way so that with the law, that individual can do what we have asked them to do.

I have great respect for the Senator from Alabama and the Senator from Tennessee and, obviously, the distinguished chairman of our committee. I hope this amendment will be rejected.

I ask if the chairman—we have had two votes today, and we have, I think, somewhere in the neighborhood of 50 amendments that we are likely to deal with. The majority leader indicated he would like to wrap this up tomorrow night. I am wondering if we can get a time agreement. We have a couple others that are fairly contentious that it seems to me we need to get down here.

I would hazard the guess that nothing I have just said is going to persuade anybody one way or the other. This is one where everybody has pretty well made their minds up. Maybe they will be persuaded because of the eloquence and the logical manner of the chairman, but I think this is one where people have made up their minds. So let us insert our statements in the RECORD and go to a rollcall vote so we can get to the final passage of the bill, as the majority leader wants to, by tomorrow night.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Delaware.

Mr. ROTH. Let me say, on this question of completion of consideration of this legislation, I strongly agree that we want to move as expeditiously as possible. It is my intent that we will complete the legislation tomorrow, staying as late as may be necessary.

Mr. President, I would like to respond to some of the earlier comments made on the granting of waivers to the conflict of interest laws. I would like to point out that the waiver granted Mr. Rossotti was made by the same Office of Ethics that made a very persuasive argument here that we should not waive the criminal conflicts of interest as has been done under the legislation.

Let me point out that there is a major difference between receiving a specific agency waiver under section 208 of the ethics law, which is what the Senator was referring to, and a wholesale statutory waiver of all the conflict of interest laws, which is what is contemplated in the IRS bill.

Again, what Mr. Rossotti got was a specific agency waiver under section 208. To get a specific agency waiver under section 208, the employee must disclose the situation which gives rise to the conflict, and the agency need only to determine that the conflict—and I quote—"is not so substantial to affect the integrity of the services which the Government may expect from the employee."

The problem with the IRS employee representative is that the conflicts are so substantial and pervasive that the representative would almost never qualify for a waiver. And that is not

my conclusion, that is the conclusion of the Office of Government Ethics. Quoting from their letter dated March 27, 1998, the director wrote:

While section 208 does contain a waiver provision, it applies only where the financial interest involved is "not so substantial" as to be deemed likely to affect an employee's service. We believe that it would be almost impossible for an officer of a union to legitimately meet the test set forth in the statute because of his own and the union's financial interest that would be affected by the matters before the Board.

The director repeated this point in his letter dated May 1, 1998, saying:

For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board Member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

The quoted language also raises a second important point, which is that some of the conflict of interest laws do not provide for waivers at all.

Mr. President, the bottom line is this: A statutory waiver of all the criminal conflict of interest laws for one person is simply wrong, it is very bad policy, and it establishes a dangerous precedent.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. ROTH. Yes. I will be happy to.

Mr. SESSIONS. I say to the chairman, do you see what we are doing here, as a matter of principle, any different than if this body were to pass a law to exempt an individual from the bribery laws?

Mr. KERREY. I hope the answer is no, for gosh sakes. We understand what the nature of bribery is.

Mr. ROTH. Yes. A bribery law is part of the criminal code. I would not exempt it.

Mr. SESSIONS. This is a criminal provision. We have been using the word "ethics," but it is really a criminal provision, isn't that right, Mr. Chairman?

Mr. ROTH. That is correct.

Mr. SESSIONS. Criminal law of the United States. And I can see, therefore, why the Ethics Committee would suggest it was unprecedented that the U.S. Congress would pass a law to exempt someone from the criminal law of the United States. I hope that is unprecedented. And my complaint, I say to the chairman, just simply is this—to say that I understand what the Senators have been trying to do. I understand their good intent. But I think we are confusing ourselves with the law of the United States. This is a very bad thing. It is a very bad policy. It should not happen. And we need to vote on it. I appreciate the chairman yielding.

Mr. KERREY. Mr. President, I don't know on what basis the distinguished Senator from Delaware answers the question that, yes, it is like giving an exemption to bribery law. In our own report, we say the rules related to bribery would continue to apply. I mean, that is a red herring, raising the issue of bribery. Look, I feel like I am arguing the red queen here.

We made a decision as a consequence of an overriding interest that we want a Treasury employee representative on this board. Why? What is the interest? Do you want to get the restructuring done or not? No? You are opposed to it? Fine. Say no. But our Commission heard from people, both in the private sector and the public sector, that have done this sort of thing. They said, "Folks, if you want to get the job done"—understand we're talking about traumatic changes in how people work. You can imagine, we would want a Senate representative on a board that was going to be restructuring this place. Do you think anybody would say, "Gee, we've got a conflict. We can't sit on a board that might reduce the number of people here from 100 to 80"? I don't think so. I think one of us would want to be on that board. And we would write to the Office of Government Ethics and say, "To heck with you. We'll figure out a way to get it done."

That is what we are talking about here. The employee representative will enable us to get the job done. We have to have a substantial reduction in forces as a consequence of this restructuring. It is going to be traumatic. It is going to be difficult. And over and over I have said we heard from both public and private sector people: Get somebody who's going to have to sell this thing on this board.

So now you are left with the question, how do I do that? Obviously, they still represent the employee's union. Obviously, they still have a job responsibility out there in some fashion. Well, we have to deal with that specific conflict. It is not a carte blanche, broad-based waiver that includes such things as bribery. Come on.

If you do not want a Treasury representative on there, don't put him on there. If you think the law is going to produce a conflict, well then, file a complaint, and go down to the Government Ethics Office and say this individual has a conflict. Any citizen is going to have the opportunity to do that.

But I caution Members. That is why we are having a tough time getting anybody to serve. We go through this nominating process all the time around here, and we find ourselves with friends saying, "My gosh, I don't want to serve in that capacity. Look at all the things I've got to go through in order to be a public servant today."

Mr. Rossotti is a very good case in point—a very good case in point. A strict interpretation of the ethics rules would have caused us to say, "Mr. Rossotti, I understand that you are willing to say yes to the President, but we have to respectfully say no. We are just not going to do it. We're not going to allow you. You have all this private sector experience, all this management experience, but it's a conflict. You've got ownership of stock in a company that does business with the IRS, therefore, you're disqualified."

That is what we are dealing with here. The Commissioner of the IRS has a company that does business with the IRS. Now, can we deal with that? The answer is absolutely yes, because it is a compelling interest to get it done. Likewise, there is a compelling interest as a result of the traumatic change.

I ask any Member here, again, if there was a board out there that was going to make a decision that could reduce in force the number of people in the Senate from 100 to 80, would we say, "Well, we don't need to have a representative on there because we have a conflict"? I don't think so.

We asked to be on the board, and we deal with the Office of Government Ethics, and we figure out a way to make certain that conflict is narrowly drawn, because of the overriding interest of the employee representative on the board who will make these decisions.

If you don't want the board, fine; I understand that. The Senator from Texas is skeptical about the board. Skepticism in many ways is deserved. You never know if the board will be great or not. I think it will be great. If you don't want an employee representative, fine; say so. But please don't get down here and say that we are doing something comparable to waiving the bribery statute. That is not what we are doing.

We are going to have a very, very difficult time if this degenerates into a debate about loosening up our ethics law to allow all kinds of criminal conduct. We are not doing that. It is a narrowly drawn exception to enable the individual to do a job we want the individual to do.

Mr. BAUCUS. Essentially, the amendment offered by the Senator from Tennessee is an amendment to take an employee off the board. That is the point. The real question we have to ask ourselves is: Do we want this restructuring to work or not? We create a Board, give the Board certain powers, and the Restructuring Commission, led by Senator GRASSLEY from Iowa and Senator KERREY of Nebraska, concluded there should be among board members an employee representative. That was their conclusion. They believed that would help restructuring work.

Why? Because so many of the problems that we have with the IRS, most of the problems that were documented at the Finance Committee hearings, are employee problems—that is, rogue

employees, employees who were covering up, employees doing this or that. Also problems with managers—some of them were doing their job, some were not.

Obviously, an employee who is on the Board will be able to tell the Board what is going on, what is not going on, what the views of the employees are, and so forth.

Now some suggest that the Board should just consult with employees. That will not work. You need somebody there on the Oversight Board who will be able to not only report to the employees what is going on, but be able to send back to employees what board policy is if we are going to get restructuring to work.

We need teamwork here. We don't need an adversarial relationship. We are not talking about Board versus employees. We are talking about a Board which will make restructuring work. Just think about it. An employee on the Board will help make this work.

If you want an employee, you want a good employee; right? You want a good representative on the Board. How do you make sure you get a good, solid employee on the Board? First, you have the President appoint the employee. That is the what the bill provides. Obviously, the President will appoint somebody he or she thinks is a person who will do a very good job because it is in his interest to make IRS restructuring work.

What is another check? Confirmation by the Senate. I say to my colleagues, if you don't like the employee representative that the President nominates to the Board, you can vote against him or her. During the confirmation process, you have an opportunity to check into the background of this appointee. You can check to see whether this is a good or bad person. That is a real good check which will enable you to get a sense whether this is a person who has conflicts or who will be a public servant—who will be narrowly representing his or her private interests or his or her organization. You can get a sense of these matters through the confirmation hearings.

In addition to that, the President can remove any Board member, including the employee representative, at will—that is, without cause, at will.

Finally, the employee representative is subject to the same restrictions as the private life Board members; examples are the disclosure requirements and the 1-year restriction after service on the board.

Now, the main point here is: If you are going to have an employee on the Board, how do you make sure that there are no conflicts of interest? I remind my colleagues, when this bill passed the House 426–4, there were no restrictions; there was no waiver provision in the bill. They just said, OK, have an employee. Well, we have improved the bill by rewriting this provision.

I remind my colleagues, all the conflict of interest statutes apply to the employee representative, except for the very narrowly tailored situation where conflicts arise because of his status as employee representative. That is, because the employees he represents work for the IRS and he or she is compensated by the employee organization. Otherwise, all conflict of interest statutes apply.

The comparison was raised about these waivers being like waiving violations for bribery, a criminal offense. Of course, bribery is a criminal offense. That is irrelevant. Murder is a criminal offense too. There are all kinds of criminal offenses in our criminal law. That is totally irrelevant to what we are talking about here.

The narrow, technical question here is: Are the provisions and the safeguards that are written into this statute, in the committee report, sufficient to make sure that the employee representative does a good job and represents the public interest? Of course, that assumes you want an employee on the Board in the first place.

Frankly, I do believe that most of those who are arguing to remove the waiver are really arguing to remove the employee. It is a back-door way to get the employee off the Board. That is what is going on here. That is what the argument is really all about. It is just a back-door way to accomplish an objective instead of dealing with it frontally, instead of saying, "We don't want an employee representative on the Board."

I feel very strongly that if we want this restructuring Board to work, it makes sense to have an employee representative on it. There are lots of checks to make sure this employee is performing public service instead of some private interest.

The amendment before the Senate, if it passes, will make it very, very difficult for any employee to serve on the Board. I don't think that is what we want to do. It is not good for the country.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. It seems the criticism of the amendment, first of all, is that there is no conflict anyway with regard to these employees serving on this board. Of course, if that is the case, there was no reason for the exemption. So by having the exemption in there, it is an open admission there is an inherent and obvious conflict of interest.

The question is whether we want to do something about it. Do we want to single out this particular individual and say, "With regard to you—nobody else, but with regard to you—these conflict of interest provisions will not apply; we don't care if you have a clear and obvious conflict of interest"?

Secondly, it is said that this is very, very narrow as far as the exemption is concerned, but the bill, as reported, exempts a union representative from four key ethic laws when the representative is acting on behalf of his or her union. Those four laws are a part of chapter 11, title 18, United States Code, entitled "Bribery, Graft, and Conflicts of Interest."

What are those provisions that we are exempting here? Generally speaking, title 18, section 203, makes it a crime to "demand, seek, receive, accept, or agree to receive or accept" any compensation as an agent or attorney for a third party when a person is working as an officer or employee of the Federal Government.

That is one of the things we would be exempting this employee from.

The other section, section 205 of title 18, which is the criminal title, makes it a crime for any Federal employee to appear as an agent or attorney on behalf of anyone in a proceeding to which the United States is a party.

So that is the second thing we would be exempting this particular member from.

Thirdly, section 207, makes it a crime to make certain communications to an official of the Federal Government on behalf of any other person if the communications are made "with the intent to influence."

This is the third exemption that would apply.

Lastly, section 208, which is a general conflict-of-interest provision which makes it a crime for a Federal employee to participate "personally and substantially" in any way in a matter where he, himself, his family, a partner, or certain others have "a financial interest."

So, one just has to make a decision as to whether or not you feel that this particular employee on this particular board—whether or not you feel the employee ought to be on the board or not; we are not taking them off the board by this amendment; presumably, there are some things that this member could decide that would not present a conflict of interest—but you simply have to decide whether or not you want to take this particular employee and treat him or her differently than anybody else in the Government. This is the sort of thing that we have spent substantial time in Governmental Affairs on with regard to the ethics provisions and their applicability to employees.

I do not think it would be a good policy to have this exemption. As I say, if there is no particular conflict with regard to any particular matter that is before the board, all this is irrelevant anyway. There is no need for the exemption anyway. But if, in fact, they are on the board and they are seeking

compensation from a third party while working for the Federal Government, or if they are appearing as an agent on behalf of anybody else who has a matter before the board, or if they are making communications with intent to influence when they are on the payroll of somebody else, this basically has to do with whether or not it is a good idea to put somebody on the board to make decisions with regard to themselves and their fellow employees, who they represent. Certainly, they would have the ability to give their input in lots of different ways.

But as far as decisions are concerned, we have seen the problems that we have had with regard to IRS employees. Do we think we should place a representative of the IRS employees on this board to make decisions as to what to do with the people with the problem? Certainly they should be heard, but should they be on the board? Number one, OK, put them on the board; number two, should we exempt them from all of the ethical rules, or these four particular ethical conflict of interest provisions? I think we should not.

I yield the floor.

Mr. KERREY. Mr. President, first of all, let me once again say that we make exceptions in order to accomplish something that we believe is important to accomplish. We accommodate the exception in order to stay within the guidelines of the Office of Government Ethics. We did that for Mr. Rossotti. He would not be the commissioner of the IRS if we took a strict interpretation of the conflict of interest law. We just would not do it. He would be disqualified, as would anybody with any real private sector interest or any real private sector experience.

It is ridiculous, it seems to me, to suggest that we never make exceptions. This is an exceptional case. We make them all the time. We measure it carefully, and we take care to make certain that the other applicable parts of the conflict of interest law are still enforced. That is what we have done here. The Senator from Tennessee is quite right when he says, gee, you are making an exception of this individual. Yes, we are. Why? He is the only employee representative. If there were 7 employee representatives on the board, we would be doing the same thing for everybody. That is what is going on. We have one representative because there are going to be traumatic changes in the IRS as a result of new authorities we are granting the commissioner in title I. Look at the new authorities we are granting.

I draw a parallel to this body. If we were granting some board authority to make reductions around here, we would want to be on that board. We would want to participate in that decision. And somebody would say we have a conflict, but we would figure out a way to deal with that, rest assured, if that were the case. That is what we have done here. We have not exempted this individual. Just look at the statute. We have not exempted this individual from all other conflicts of interest—only the conflict that deals with the fact that he works for the IRS. That is what we are trying to deal with here. If you have some specific ways you want to deal with that so you can get the job done, we can do it. To stand out here and say, gee, we are making an exception, as if that is remarkable, yes, we are and we are trying to deal with an exceptional circumstance, as we did with Mr. Rossotti in the first place.

So, again, I say to colleagues that there is a threshold decision here. Do you want an IRS representative on the board at all? If you do, you have to deal with the concerns OGE has raised. That is what we have done.

Mr. THOMPSON. Mr. President, I refer to the position of the Office of Government Ethics on this. They have considered this matter and wrote to the minority leader. One provision of the bill provides for waivers of applicable conflict of interest laws for one member of that board. I am quoting now:

> We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

So the comparisons to Mr. Rossotti, who formerly had a position in the private sector, are inapplicable. As far as this body is concerned, we spent a great deal of time answering to perceived conflict of interest situations. I doubt if we would ever be in a situation of exempting ourselves from any of those considerations here.

So this is a very narrowly tailored provision. I understand the sentiment of having some input, having as broad an input as possible. Hopefully, there would be a way to have that kind of input from the employees on perhaps a less formalbasis. But there is an overriding issue here, Mr. President. I don't think we can willy-nilly say that any time we want to make an exception to the ethics rules because we want to get the thing done. We can say that in almost every situation.

So I must agree with the ethics letter that has been made part of this RECORD, which says it is unprecedented and antithetical to good Government ethics policy and therefore to good Government.

I yield the floor.

Mr. KERREY. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside so we can deal with an amendment to be offered by the Senators from Wisconsin, Mr. KOHL and Mr. FEINGOLD, who have an amendment that both sides have agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object, briefly. I wanted to clarify something.

The PRESIDING OFFICER. Objection is heard. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I ask unanimous consent that the Senator from New York be able to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object. I would like to have 2 minutes.

The PRESIDING OFFICER. Has the Senator from Nebraska yielded the floor?

The Senator from Alabama——

Mr. D'AMATO. Mr. President, I have never objected to a person going forward for a minute or 2 minutes, but there is a way to try to accomplish this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, with regard to my raising the question of bribery as being the same in principle as what we are discussing here, I would like to make a statement. Maybe I was misunderstood. I would like to just say that, fundamentally, we are waiving the applicability of sections 203, 205, 207 of the United States Criminal Code. The bribery section is section 201 1.

As a matter of principle, I just wanted to make the point that what we are being asked to do here is to waive the criminal law of the United States with regard to this particular individual, and the Ethics Committee has said it is unprecedented. That means this body has never done this in its entire history. This is a legal mistake. I am not here concerning myself with the individuals who make up the board. I am here because it was called to my attention that this problem existed. I am a former Federal prosecutor and a member of the Ethics Committee of this body, and I believe this is a legal mistake—a legal mistake we should not make. That is why I am making my comments now. I am very sorry to interrupt the Senator from New York, but it was important to clarify the record, I thought.

Mr. BAUCUS. How long will the Senator from New York speak?

Mr. D'AMATO. No longer than 5 minutes.

(By unanimous consent, the remarks of Mr. D'AMATO are printed in today's RECORD under "Morning Business.")

Mr. SARBANES. Mr. President, while I support H.R. 2676, the Internal Revenue Service restructuring bill that is now before the Senate, I would like to express my opposition to any amendment that would seek to remove an IRS employee representative from the citizens oversight board established in that legislation.

Mr. President, the idea of having an employee representative on the oversight board is hardly a novel one. In fact, that idea has been incorporated into virtually every IRS reform proposal that has been made in the last couple of years, including:

The recommendation of the bipartisan Commission to Restructure the Internal Revenue Service;

H.R. 2676, the House IRS reform bill that passed that body by a vote of 426–4.

The Senate Finance Committee's version of the IRS bill, which we are now considering; and

The recommendation of the Administration.

That an employee representative has been deemed an essential part of the proposed oversight board in particular—and IRS reform in general—should not be surprising.

The IRS is an enormous agency of over 100,000 employees. The IRS reform bill we are now considering gives the proposed oversight board significant authority to review and approve plans for this agency's operation—its strategic plans, its reorganization plans, its budget requests, and other fundamental operational matters.

Without the cooperation and input of the IRS' employees in this process, how can we possibly expect the board's responsibilities to be discharged in a manner that will make the oversight board an effective instrument of reform?

Let us not forget that IRS employees have been instrumental in bringing to light much of the information that has caused Congress to undertake the reform efforts before us now.

Let us also recall that IRS employees have expertise in the operation of the agency that is unique and irreplaceable. This expertise is absolutely integral to effecting the kinds of changes that we in Congress—and more important, the American people—want and expect.

Mr. President, the idea of having employee input in the basic management decisions of major enterprises is not a novel one. In fact, the placement of an employee representative on the IRS oversight board mirrors similar steps taken in several private sector businesses. For example:

Northwest Airlines has a union representative on its Board of Directors;

Similarly, the steelworkers union holds a position on the Boards of Directors of several of our nation's biggest steel companies.

Thus, both the private sector and—in this legislation—the public sector have recognized the value of having employee input and participation in the management of major enterprises.

Those who seek to eliminate employee participation on the oversight board charge that a union representative on the board will have conflicting interests that will hinder the board's effectiveness. Mr. President, my colleagues should note that this union representative:

Is subject to nomination by the President and confirmation by the Senate;

Must make full financial disclosure in accordance with current laws, like all other board members;

Is, unlike other board members, subject to additional disclosure requirements, including requirements to file financial disclosure information with the Senate Finance and House Ways and Means Committees.

Will receive a waiver of conflict of interest laws along the lines of those granted in over 1,000 cases a year, where the public benefit of the individual's participation in government decisionmaking outweighs the potential benefit arising out of that participation.

In short, Mr. President, the union representative will face greater scrutiny than any other member of the board; such scrutiny will ensure that this representative will discharge his or her duties diligently and responsibly. Moreover, the House and the Senate Finance Committee have determined that the public benefit of having an employee representative on the board outweighs the potential conflict by having him or her on the board. I think this determination is indisputably correct, and should not be disturbed by the full Senate.

In closing, let me make a few remarks about Federal employees in general.

It has become all too fashionable in recent years for Congress to berate federal employees and to denigrate the many contributions they make to our nation.

Federal employees render invaluable service to this nation. They work hard and are proud of that work. Many of them are highly educated and skilled. In short, they bring a great deal of expertise and dedication to their roles as civil servants.

Such dedication ought to be recognized, applauded, and, most important in this context, utilized to help the government's efforts become more responsive to our constituents. We are now engaged in such an effort. To remove Federal employees from the oversight board would be shortsighted and a disservice to the nation. I therefore urge my colleagues to preserve the current composition of the oversight board and to defeat any amendment that would change that composition by removing the employee representative.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent the pending amendment be laid aside.

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

AMENDMENT NO. 2357

(Purpose: To provide for an independent review of the investigation of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin, and for other purposes)

Mr. KERREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. KERREY), for Mr. KOHL, and Mr. FEINGOLD, proposes an amendment numbered 2357.

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 229, insert between lines 15 and 16 the following new section:

SEC. 1106. REVIEW OF MILWAUKEE AND WAUKESHA INTERNAL REVENUE SERVICE OFFICES.

(a) IN GENERAL.—

(1) REVIEW.—The Commissioner of Internal Revenue shall appoint an independent expert in employment and personnel matters to conduct a review of the investigation conducted by the task force, established by the Internal Revenue Service and initiated in January 1998, of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin.

(2) CONTENT.—The review conducted under paragraph (1) shall include—

(A) a determination of the accuracy and validity of such investigation; and

(B) if determined necessary by the expert, a further investigation of such offices relating to—

(i) the equal employment opportunity process; and

(ii) any alleged discriminatory employment-related actions, including any alleged violations of Federal law.

(b) REPORT.—Not later than July 1, 1999, the independent expert shall report on the review conducted under subsection (a) (and any recommendations for action) to Congress and the Commissioner of Internal Revenue.

Mr. KERREY. Mr. President, this amendment has been cleared on both sides. We believe it is a good amendment.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If there is no objection, the amendment is agreed to.

The amendment (No. 2357) was agreed to.

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

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

IN THIS TIME OF HOT AIR, TOBACCO FARMERS SHOULD KEEP COOL

Mr. HELMS. Mr. President, it's fair to say that the so-called tobacco "debate"—and I characterize most of the rhetorical chatter as "so-called" because it (1) has amounted to little more than posturing, and (2) has created enormous uncertainty and unease for the thousands of fine Americans who earn their living in the tobacco industry.

The public health community (and its "Amen corner" in Congress) would delight in putting the tobacco companies out of business rather than seriously and honestly addressing the issues facing the hundreds of communities in North Carolina and other states that are economically dependant on the tobacco industry. Mr. President, it's unfortunate that this issue has become so politicized that usually rational Members of Congress have been totally irrational in their exaggeration of the entire situation.

Moreover, Mr. President, it is not anywhere in recorded history that anyone ever began smoking because a gun had been leveled at his or her head with orders to smoke, or else. There is no Senator who doesn't support efforts to curtail youth smoking, and not one parent has come forward asserting that Joe Camel and the Marlboro Man have more control over their children than they do.

But all the pious, exaggerated political nonsense aside, farmers must continue to grow their legal crop in order to provide for the livelihood of their families.

Sometime back, I promised the farm leaders of North Carolina that I would meet with the chief executives of all tobacco companies to encourage them to buy the maximum amount of U.S. tobacco possible in 1998. I have kept that commitment. I have indeed met with the leaders of all companies, one by one. Their concern for tobacco farmers, and for all other citizens who earn their livings "in tobacco", was immediate, impressive and sincere.

There is no doubt in my mind, as a result of these meetings, that leaders of the tobacco companies do indeed intend to purchase as much U.S. tobacco as possible this marketing season.

In fact, some CEOs assured me that they plan to purchase more U.S. tobacco this marketing season than they purchased in 1997. One company leader emphasized his company's plans to increase its purchases of U.S. leaf every year through 2002.

The tobacco companies understand the need to purchase at least this year's effective quota in order to prevent another substantial decrease in quota next year. There will be a lot of personal bankruptcies in North Carolina if our farmers are faced with another 10- to 17-percent reduction in quota. But I am confident—and I do expect—that the tobacco companies will honor their commitment to me and the tobacco farmers of this country to purchase U.S. tobacco this marketing season.

Mr. President, everyone in the tobacco community—particularly the tobacco companies—realizes that the tobacco farmers should have been included in the so-called "National Tobacco Settlement" in the first place.

Tobacco farmers and manufacturers are at a crossroads that may very well define their destiny. They can either choose to work in good faith, or they can choose not to. If they choose to harbor ill-will and mistrust, the destruction rampant in this industry will be far greater than anything Congress could ever levy by politics or legislation.

Mr. President, during these obviously difficult times in tobacco country, squadrons of politicians in Washington and elsewhere are eager for headlines back home at the expense of the farmers. No one knows what will happen with the McCain bill, nor with any other tobacco legislation that may come forward. But I can promise you this: there will continue to be a number of special interest groups that will try to exploit the fears of the tobacco farmer for their own gain.

I can counsel our folks back home to avoid being disillusioned. If we work together and in good faith, the tobacco farmers of America will continue to have a future, no matter the threats and pleadings from the political chorus—which is becoming a little more discordant with every passing day.

Mr. President, I thank the Chair.

Mr. KERREY. Mr. President, I want to say to the Senator from North Carolina, independent of the subject matter to which he just spoke, that I see him and the way he lives, and he is one tough bird. I admire his courage and I admire the way he keeps after it.

I just wish him the best of health.

Mr. HELMS. I thank the Senator.

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

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

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2343

Mr. ASHCROFT. Mr. President, I thank Senator ROTH and Senator MOYNIHAN for having accepted the Leahy-Ashcroft amendment which will provide electronic access to the IRS information on the Internet. This amendment will require the IRS to maintain its web site with current forms, instructions and publications so people anywhere with access to the Internet can have access to those forms.

To allow the public to have easy, efficient electronic access to all the IRS information that may be needed to adequately prepare a tax filing is a real benefit to the people, and I thank Senator ROTH and Senator MOYNIHAN for accepting the Leahy-Ashcroft amendment which will provide electronic access to the IRS information on the Internet. And I thank Senator LEAHY for his involvement in that measure.

Mr. President, I am pleased that the bipartisan amendment introduced by Senator LEAHY and me has been adopted into the current legislation. This amendment will give individuals the ability to access a great deal of material from the IRS. Revenue rulings, treasury regulations, internal revenue bulletins, and IRS general counsel memorandum are just a few of the documents that will routinely be made available in an easy to use format. This information should provide for an easier and more understandable approach to tax planning and preparation. Individuals will be able to see rulings that may be similar to a situation they are in currently and plan accordingly.

A central idea that I have carried from the time I was elected as a U.S. Senator was that the Federal Government be open and accessible to the public. I spent time traveling around Missouri, and visited every county, to demonstrate to students how they could access information about the federal government through my website. To rural and urban areas the power of the Internet is tremendous—so much that was far from reach is now accessible. This amendment moves IRS information closer to the public in an orderly educational way.

As has been mentioned here, the tax code has become increasingly complex and onerous. My wife is a tax attorney, she even teaches tax law at Howard University, and we do not even prepare our own tax forms. My hope is that this modest effort will provide the public with timely, reliable information that may assist in their efforts to prepare their taxes.

The effort is clearly a first step, that along with the rest of the provisions of this piece of legislation should provide the taxpayer with much more protection than they currently enjoy. Again, I thank the Finance Committee for its work, and Senator LEAHY for his advocacy on this issue.

Mr. President, I ask that the pending amendment be set aside and that I be allowed to send an amendment to the desk for consideration.

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

AMENDMENT NO. 2348

(Purpose: Striking the presumption that electronic verifications are treated as actually submitted and subscribed by a person)

Mr. ASHCROFT. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT], for himself and Mr. LEAHY, proposes an amendment numbered 2348.

Mr. ASHCROFT. 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 261, strike lines 4 through 7, and insert "and subscribed".

Mr. ASHCROFT. Mr. President, the amendment which I have just sent to the desk, known as the Ashcroft-Leahy amendment, would strike a one-sentence provision that holds taxpayers as guilty until proven innocent. The IRS would deem a minimum level of security of a personal identification number code assigned each taxpayer for purposes of electronic filing as actually more binding than an analog signature.

Let me just sort of put that in ordinary language. Ordinarily, it is the responsibility of the IRS in seeking to act upon a tax return to prove that the signature is actually the signature of the person who purportedly signed it. For those individuals signing electronically, this provision would be reversed so that a person who signs electronically would be discriminated against as compared to an individual who signs in analog form.

That is a problem, but it is really not nearly the problem that comes when you just open the door to the legal nightmare for taxpayers who might be victims of electronic identity theft, where their identity is stolen electronically, whose pin codes or real electronic signature is fraudulently used. And secondly, not only does it subject people to that kind of risk, but it makes very bad technology policy. As we begin to welcome the use of technology to alleviate the kind of burden that is both on taxpayers and on the individuals in the bureaucracy, it is time for us to welcome the kind of technology which would provide valid authentication but not to switch to individuals who provide their tax returns via the Internet or via electronic filing a kind of discrimination which would be a disincentive for them to use the program.

The IRS is wedded to technology that is decades old. The kind of things they are talking about, the PIN code system would only make matters worse. A PIN code that anyone can type is not a secure means of authenticating documents. As we proceed into the future of electronic signatures with the use of a wide variety of technologies that will provide for authentication, it is important that we not, in the law, place this prejudice against the use of technology.

Currently, the Internal Revenue Service plans to implement electronic filing by means of a taxpayer PIN code that would actually be more authoritative than a written signature, so the person filing with a written signature would not undertake some of the responsibilities and liabilities people do with the electronic filing. That disparity in the way people are treated is not reasonable, it is not appropriate, and it is counterproductive. The IRS should use the best technology available for protection of such sensitive information and help to ensure the future of electronic commerce.

So we offer this Ashcroft-Leahy amendment which simply would strike the one-sentence provision that reverses, in terms of signatures on the Internet, the normal burdens of proof and the normal responsibility of the person proving up the document to prove the authenticity of the signature. To change in this respect for those who file electronically would be to repudiate hundreds of years of legal tradition, in terms of those seeking to prove up documents, that they prove the signature when they prove up the document.

Madam President, the Finance Committee version of this bill would establish a presumption against taxpayers filing electronically signed tax returns which does not exist for paper returns and which could have devastating consequences. Unless the Senate strikes this presumption, and opposes a similar provision in the House-passed version of this legislation, we will be leaving open the very real possibility that taxpayers who have been the victims of electronic identity theft will find themselves presumed guilty. Do we really want the innocent victim of a malicious computer hacker, forging spouse, a conniving business partner, or an embezzling accountant, to be confronted with a potentially insurmountable evidentiary hurdle when they assert that they either did not sign a tax document, or that the document has been materially altered since they signed it? What is worse is that this provision only places this burden on those who file electronically—another bias against technology.

Electronic tax filing is clearly the wave of the future and is the best method for both the IRS and taxpayers. For tax year 1997 24.2 million returns—one in five—were filed electronically, up from 19 million in the preceding year. Electronic filing is more efficient and accurate for all parties, but taxpayers should not be asked to give up rights in order to use this better technology. Certainly we did not ask for a greater burden to be placed on taxpayers who use a typewriter instead of a pen to prepare their taxes.

This language in the IRS bill is the first federal statutory language dealing with the authentication of electronic interaction between citizens and the Federal Government. It is very important that we set the right precedent. But this presumption is completely at odds with the view of legal experts on electronic commerce and evidence and would set precisely the wrong precedent. If this presumption becomes law inevitable "horror stories" will result. For many Americans, electronic authentication of their tax returns will be their first experience with an all-electronic transaction. We must be careful that we do not permit situations to occur which will cause the public to feel that electronic commerce and transactions should be avoided if they want to preserve their rights.

This presumption is antithetical to the jurisprudence developing in the area of cyberlaw. There are several measures being considered in Congress dealing with broad issues of electronic signatures, and none of them proposes to set such an adverse evidentiary standard against those who employ electronic authentication. The drafting committee of the National Conference of Commissioners on Uniform State Laws, which is laboring to produce a model Electronic Authentication Act for consideration by state legislatures, has just voted to delete any presumptions pertaining to electronic signatures from that civil law measure. The Committee on Cyberspace Law of the American Bar Association's Business Law Section discussed this IRS presumption at their last meeting and voted to authorize communications to the Senate opposing the provision. Additionally, the Working Groups on Evidence and on Law and Regulation of the Information Security Committee of the ABA's Science and Technology Section recommended that no presumptions as to identity and intent should attach to an electronic signature.

With many of the experts in this developing legal area reaching consensus that presumptions should not operate against electronic signatories even in a civil law context, how can we justify establishing one which can be utilized against taxpayers in criminal prosecutions?

Let's be clear on what this legislation does in its present form. It authorizes the IRS to develop procedures for the acceptance of signatures in digital and electronic form so that electronically filing taxpayers no longer have to send a signed paper form 8453 to the IRS. That is good policy. It establishes the principle that an electronically signed tax document shall be treated for all civil and criminal purposes as a

paper document. And that too is good policy. But it permits the IRS to provide for alternative means of subscribing to electronic documents until it adopts procedures for digital and electronic signatures. And it would allow any IRS-authorized method of subscription to create a presumption that the taxpayer actually submitted and subscribed to the tax document—a presumption in both civil and criminal cases.

Worse yet, the legislative history of this provision, in both the House and Senate bills, is silent as to the minimum standards for authentication technologies that can be adopted by the IRS as well as to the evidentiary burden which must be overcome by taxpayers who allege that they have been victims of identity theft. What, in fact, is the IRS planning to use for authentication of electronic tax documents? Their plans are public, and they consist of issuing a PIN number to taxpayers and relying on that as the primary means of electronic authentication through the year 2007. A PIN number is not generally recognized as an electronic or digital signature for electronic commerce purposes, and it is certainly not secure or reliable.

The Finance Committee recently held hearings on the plight of innocent spouses, many of whom were caught up in tax disputes when their spouse forged their name on a fraudulent tax return. This provision would make it easier for such a fraud to be perpetrated in the future, as the malicious spouse would simply have to type their marriage partner's PIN number on an electronic return rather than forge their signature on paper. And the victimized spouse would be worse off, because they would have to overcome an evidentiary presumption which does not exist for an ink signature. This presumption is dangerous.

We have not only failed to require that the IRS utilize only secure and reliable authentication methodologies, but we have also given it carte blanche to determine what burden a taxpayer must bear to overcome this evidentiary hurdle. This is completely at odds with other provisions of the bill which seek to alter the burden of proof in tax disputes in favor of taxpayers. It has been observed that proving a negative can be an impossible task. Yet this provision would let the IRS require taxpayers to somehow prove that they did not place their PIN number, not a digital signature, on a tax document which they may well have never seen.

Striking this presumption will in no way diminish the ability of the IRS to rapidly implement an all-electronic tax system. It will simply compel the IRS to choose secure and reliable authentication technologies and associated procedures for signing tax documents which create strong evidence of identify and intent. Electronic signatures do not require any assist from an evidentiary presumption to meet the legal requirements of a binding signature. To the contrary, electronic and digital signature technologies are already available which provide better evidence than an ink signature on paper. Further, these technologies not only provide superior authentication, but they also accomplish something that no pen on ink signature can—they provide irrefutable evidence as to non-repudiation by demonstrating that not a single word on a document has been altered, added, or deleted since the time it was signed. With such technologies readily available at reasonable cost, why should we permit the use of insecure and unreliable methodologies coupled to an anti-taxpayer presumption? After striking this presumption an electronic tax document will still have the same legal standing as a paper document. It will still constitute prima facie evidence as an authentic and reliable writing. But, if questions arise regarding the genuineness of an electronic signature, or under the current IRS plan a mere PIN number, and the intent with which it was attached, they will be resolved on the basis of the available evidence and will not be prejudged by a presumption against a taxpayer.

This amendment is already supported by several groups, including the Electronic Frontier Foundation, Americans for Tax Reform, Eagle Forum, Citizen's For A Sound Economy, National Taxpayer's Union, the Chamber of Commerce, the Association of Concerned Taxpayers, Black America's PAC, Citizens Against Higher Taxes, Regulatory Policy Center, and the Seniors Coalition. These are groups that have had the vision to look to the future of electronic commerce and electronic interaction with our government and have seen that bad precedent now will severely damage efforts in the future. I also want to thank Senator LEAHY and his staff for their quick response and solid work on this important provision.

This may seem like an esoteric issue. It is an evidentiary concern within a tax bill regarding procedures and technologies with which most of us are not yet very familiar. But a massive shift to electronic commerce, transactions, authentication and evidence is underway which will soon revolutionize the manner in which the public and private sectors conduct their business. That is why it is so important that we take the correct first steps. I urge my colleagues to join me and act to delete this dangerous presumption from the IRS bill. This legislation will only fulfill our goal of enhancing taxpayer rights if we adopt the principle that those rights should be identical regardless of whether taxpayers file physical or virtual documents.

I want to especially thank the Senator from Vermont, Senator LEAHY, for his involvement in these issues and his sensitivity to the need to have a forward-looking, future-oriented policy expressed towards electronics, electronic data transmission, the filing electronically of tax returns. I personally thank Senator BURNS of Montana, who has asked that he be added as an original cosponsor of the Ashcroft-Leahy amendment.

I ask unanimous consent that Senator BURNS be included as an original cosponsor of the amendment.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

Mr. ASHCROFT. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I strongly support the amendment offered by my friend from Missouri and commend the Senator from Missouri for what he has just said.

I am proud to cosponsor this effort. It strikes the one sentence in this IRS reform bill that I believe takes away the rights of a taxpayer. I know that is not the intent of the sponsors of this legislation. They have done a very good job trying to reform the IRS. I think we can correct this error.

The bill as currently written would create a rebuttable presumption by the Internal Revenue Service that any tax return which has been signed by electronic or digital means has actually been submitted by the person associated with the virtual signature. That is a rebuttable assumption that is unnecessary. It is adverse to the taxpayers' interests. But worse, it is likely to deter taxpayers from accepting all-electronic tax filing.

More and more things are being done online, more and more things are being done electronically, and more and more taxpayers are getting used to doing a lot of their commercial transactions electronically. And they should be able to do the same with the one thing that every one of us has to do at least once a year, and that is file a tax return. We may or may not order from an electronic catalog, we may or may not buy things over the Internet, but sometime during the year we have to pay our taxes. If we are used to using things electronically, we should be able to file our tax return electronically.

But unless the sentence we are talking about is removed from this bill, a taxpayer filing an all-electronic tax document will face a greater evidentiary burden in any subsequent dispute with the IRS than a taxpayer who signed a paper return with pen and ink. An electronic signature should have no less and no greater status in the tax context than a physical signature.

The presumption would provide unintended assistance to perpetrators of tax frauds, forgeries, and electronic identity thefts such as the "innocent spouse" cases recently reviewed by the

Finance Committee. It could even reverse the presumption of innocence and due process of taxpayers in criminal prosecutions by the IRS. None of us want to do that.

We have laws regarding authentication of electronic and digital signatures, but they are in their infancy. Several States, including my home State of Vermont, are crafting legislation to promote secure and reliable digital signatures. Senator ASHCROFT and I, by working together to craft bipartisan Federal legislation on digital signatures, are trying to do precisely that. Congress should not be giving the Internal Revenue Service unrestricted authority in this emerging area of cyberspace law.

If you adopt the Ashcroft-Leahy amendment, then, if you have an electronically authenticated tax document, it will still be treated under the bill, for all civil and criminal purposes, the same as a paper return. That principle of equality is the correct standard. Citizens should not be required to forfeit rights to use new technology.

If somebody is used to using the Internet, if they are used to using their computers in electronic commerce, they should not suddenly have a roadblock go up to say, "But not on your tax returns. You have to go the old-fashioned way." If people are going into the computer and digital age, they ought to be able to do that for their tax returns, too.

I commend what Senator ROTH, the distinguished chairman of the Finance Committee, and Senator KERREY and Senator MOYNIHAN and Senator GRASSLEY have done here to bring us into the electronic age and to bring us to a more modern system with the IRS. What the Senator from Missouri, Mr. ASHCROFT, and I are trying to do is to make sure we go even further into the modern age. Our amendment is supported by such diverse groups as the U.S. Chamber of Commerce, the Electronic Frontier Foundation, and Americans for Tax Reform.

So I hope my colleagues will support the Ashcroft-Leahy-Burns amendment.

Madam President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I congratulate my colleagues, Senator ASHCROFT and Senator LEAHY. Senator LEAHY and I have been on many issues with regard to the Internet. I think Senator LEAHY, whenever we talk about this issue, what we want to do with it, also understands another issue called encryption and how important security is. We have been around to see this thing grow and blossom. They go hand in hand, basically, as we use this technology more.

My friend from Missouri being very interested in this, as chairman of the Subcommittee on Communications, we will continue to work on these kind of issues. This should be an easy amendment for this body to support—in fact, for this Congress to support. If you want to continue to use the same burdensome and bureaucratic methods that we have used in the past, then don't support this amendment. Don't support this amendment if you like the status quo. If we, as a voice of our constituents, are truly interested in IRS reform for taxpayers, then we need to support it. More and more Americans are becoming Internet savvy, and the day is not far off when most of the business and personal transactions will take place on the Internet. We are already banking; we are handling financial transactions on the Internet. So why should this not be one that we can use, at least once a year?

The Internet is just not for surfing anymore. If you want to surf, I guess you can go to California. But in Montana and rural areas, our connection to these kinds of services is going to come through that medium.

We need electronic commerce. It is going to be the future of the new way, and we have to accept that and learn to use it.

Adopting this amendment will encourage the American taxpayer that we are interested in reforming the way the IRS does business. There is no reason to treat electronic tax filers any different than taxpayers using the traditional filing methods.

The deployment of electronic commerce will ultimately save American taxpayers not only time, but it will save them money. Such discriminating treatment makes no sense and has a far-reaching negative impact in delaying the benefits to both the U.S. Government and citizens in conducting business electronically.

The amendment at issue is a perfect example of that. What possible justification is there in placing the presumption upon the taxpayer improving a case simply because he chose to file his tax return electronically instead of putting it in an envelope? It is just unproductive.

If we are not supposed to look to the future, then what are we supposed to be doing around here? Are we not supposed to make our Federal Government friendlier and more accessible to the taxpayer? I would say yes, we are. Are we not supposed to have a visionary agenda regarding the IRS? I say we should.

We in Congress should strive for a consistent treatment for functionally equivalent transactions, and I believe this will be one of our most significant challenges as we move into the next century.

More and more businesses, and communications generally, will be transacted over the Internet. That is why I am a cosponsor of this amendment. It will level the playing field for all taxpayers, regardless of the method they choose in filing their taxes.

The Internet offers unlimited opportunity to both business and personal transactions. We need to foster those opportunities. We need to make it easier for taxpayers to file their taxes.

Our antiquated understanding of how transactions have to be treated historically is not the way we can do things in the future. This is why I am an advocate of a variety of different measures that would foster and encourage commerce and communication over the Internet, including the Internet Tax Freedom Act. And the use of encryption comes into this also, because the technology itself will never bloom until we can have some confidence in the security of the information that we send over the Internet. We have to work on that just as much. The continuing buildout of broadband infrastructure is very important. We will continue to develop that to make sure that it is accessible to every American and not just a chosen few, regardless of geographic location.

Madam President, I ask support of this amendment because I think it is very important if we are really serious about changing the way the IRS does business.

I thank the Chair. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Madam President, in spite of what the Senator from Montana just said, I continue to support his amendment. There is no rebuttable presumption on my part. I believe it is a good amendment, and I am prepared to accept it.

I want to comment before the distinguished chairman of the committee rises to accept the amendment. I call to your attention that this title I consider to be one of the most important ones in the bill. I appreciate this may be the only amendment on this title. Congressman Portman and I put a lot of time and attention into it. I call to your attention that it starts off by saying:

> It is the policy of the Congress that—
>
> (1) paperless filing should be the preferred and most convenient means of filing tax and information returns, and
>
> (2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007.

The House actually mandates 80 percent. This just says the goal. Later, I will try to get an amendment, and I urge you to look at it—I will get you copies of it—which will add a third item which would say "the Internal Revenue Service should work cooperatively and not competitively with the private sector to increase electronic filing of such returns consistent with the Office of Management and Budget Circular A-76."

If this is going to develop correctly, I believe the IRS has to manage the

competition with the private sector. We have to write the rules so the private sector can be called upon to answer the questions of how to use the technology correctly. I hope we can get an amendment adopted which will instruct the IRS not to compete but to work cooperatively with the private sector to get this done.

Mr. ROTH. Madam President, as my distinguished colleague indicated, this matter has been cleared with both sides. The amendment is acceptable.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 2348) was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROTH. Madam President, I ask unanimous consent that notwithstanding the previous consent agreement, the following amendments also be considered in order to H.R. 2676, the IRS reform bill, with all other provisions of the previous agreement still in effect: Grassley, refund offset; Grassley, Iowa pilot project; Grassley, taxpayer advocate council; Nickles, relevant. I ask unanimous consent for these additions.

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

Mr. ROTH. Mr. President, I ask unanimous consent that at 9:30 a.m. on Thursday, the Senate resume consideration of the Thompson amendment No. 2356, and that the time until 10 o'clock a.m. be equally divided in the usual form. I further ask unanimous consent that at 10 o'clock a.m., the Senate proceed to a vote on, or in relation to, the Thompson amendment, and that no amendments be in order to the Thompson amendment prior to its disposition.

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

Mr. KERREY. Madam President, the distinguished chairman of the Finance Committee, Senator ROTH, and I will try to manage this bill so we can get it done tomorrow. There are what, 15 amendments approximately now on both sides. In order to get it done, Members who have amendments, I hope after we have our vote tomorrow morning, will stay on the floor and offer them so we can finish this bill. If we don't, it is likely there will be an extremely late session tomorrow night. Most of the controversial items on this piece of legislation really have been dealt with. We have the Treasury employees representative amendment to be dealt with tomorrow. We have the Treasury Secretary to be dealt with tomorrow. Most of the controversial stuff has already been resolved. I hope Members who have amendments will come down here with them as quickly as possible so we can finish this important piece of legislation tomorrow.

Mr. ROTH. I want to underscore what the distinguished Senator just said. It is important that we complete consideration of this legislation tomorrow. But in order to do so, it is of critical importance that those with amendments come down early so that we can dispose of them expeditiously.

MORNING BUSINESS

Mr. ROTH. Madam President, I ask unanimous consent there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

NATIONAL EATING DISORDER AWARENESS DAY

Mr. REID. Mr. President, I want to extend my appreciation to every Member of this Senate for unanimously passing a resolution that dedicates today to be National Eating Disorder Awareness Day.

The purpose is to raise awareness and educate others so that we can end the silence that has shrouded eating disorders for so long. The reason this is important is, this affects 8 million people. Eight million people in this country have eating disorders; the vast majority of them are women.

A recent study of a group of fourth graders reveals that 50 percent of these little students believed they were overweight. Eighty-one percent of the girls in the same group reported that they had already been on diets. These are 9-year-old kids.

Today, younger and younger children are adopting restrictive eating procedures and patterns. What begins as abnormal behavior toward food and weight control may develop into anorexia, bulimia, and other forms of disordered eating.

As with any illness, I believe it is wise to invest in resources and programs working toward prevention. By heightening awareness and increasing education, we can save many young children before they become trapped in a life-threatening cycle of an eating disorder.

I extend my appreciation to the entire Senate for allowing this resolution to pass. It sends a message to the country that we care about the 8 million people who have eating disorders.

URGING PRESIDENT CLINTON TO RETRACT ULTIMATUM TO ISRAEL

Mr. D'AMATO. Mr. President, the reason I rise at this time is because certain matters have come to my attention and they are disturbing. Today, I have sent a letter to the President of the United States in regard to this.

Mr. President, Israel is our closest ally, it is our most trusted friend among the nations of the Middle East. We have a long history of working together and supporting one another for the benefit of both nations and all of our people.

Now as we celebrate the 50th anniversary of Israel's independence, we should reaffirm our commitment to their peace and security and our support for their continuation as a strong, reliable, independent nation.

I am proud of what Israel has accomplished over 50 years. I am proud of their commitment to freedom and justice. Israel should be praised for what it has accomplished and for doing so over a very long period of time in which it has faced terrorism from within and without its own borders.

Israel has always fought its own battles. Its young have shed much blood to protect their freedom and they continue to this day to defend their right to exist. And their very right to exist is being threatened. Nations hostile to Israel throughout the region are a continuing threat to Israel's existence. And the Palestinian Authority to this day has yet to recognize Israel's legitimate right to exist.

It is wrong for the Clinton administration to pressure Israel to forgo its own security needs at this critical time. It is just wrong. It is counterproductive. It is dangerous to a legitimate peace effort. The brave Israeli citizens who stand ready to defend their nation should be supported by us in every fashion. To place an ultimatum on Israel at this time undermines the peace process and it denies a good friend the right to determine its own security needs. It is not just bad policy; it is wrong.

I urge President Clinton in the strongest terms to retract his ultimatum to Israel and to return America to our proper role as a friendly mediator in the search for peace and security for all nations in the Middle East.

Mr. President, I yield the floor.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING APRIL 24TH

Mr. HELMS. Mr. President, the American Petroleum Institute's report for the week ending April 24, that the U.S. imported 8,287,000 barrels of oil each day, an increase of 304,000 barrels over the 7,983,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 56.3 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians had better give consideration to the economic calamity sure to occur in America if and when foreign

producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,287,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 5, 1998, the federal debt stood at $5,486,129,027,438.95 (Five trillion, four hundred eighty-six billion, one hundred twenty-nine million, twenty-seven thousand, four hundred thirty-eight dollars and ninety-five cents).

One year ago, May 5, 1997, the federal debt stood at $5,332,472,000,000 (Five trillion, three hundred thirty-two billion, four hundred seventy-two million).

Five years ago, May 5, 1993, the federal debt stood at $4,243,813,000,000 (Four trillion, two hundred forty-three billion, eight hundred thirteen million).

Ten years ago, May 5, 1988, the federal debt stood at $2,516,506,000,000 (Two trillion, five hundred sixteen billion, five hundred six million).

Fifteen years ago, May 5, 1983, the federal debt stood at $1,255,471,000,000 (One trillion, two hundred fifty-five billion, four hundred seventy-one million) which reflects a debt increase of more than $4 trillion—$4,230,658,027,438.95 (Four trillion, two hundred thirty billion, six hundred fifty-eight million, twenty-seven thousand, four hundred thirty-eight dollars and ninety-five cents) during the past 15 years.

"YOUTH HEALTH ISSUES"

Mr. LEAHY. Mr. President, I rise today to recognize a commendable group of Vermont teens. Oftentimes, society shortchanges teenagers by placing unfair stereotypes upon them and by not listening to what they have to say. The eighth grade students of Barton Academy have written an article to prove that they, as teens, are vital members of their community and of society as a whole. I was particularly impressed with not only the message but with the eloquence of this article. I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD so that all Senators may read the words of these fine teenagers.

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

[From the 1997 Vermont Kids Count]

YOUTH HEALTH ISSUES

The following article, written by a class of Barton eighth graders, introduces this section on youth health issues. It provides the much-needed perspectives of teenagers, drawing attention to not only their daily lives but to the heart of many teen issues—the adult society in which they live and grow.

TEENS DEFEND THEMSELVES AGAINST STEREOTYPES

We present ourselves not as problems to society, but as we really are, 32 teens looking at themselves and society. Not statistics, but the real thing, us. We would like to present what we do that we are proud of, feel we have accomplished, and what we have given to others. We come from all social and economic backgrounds and come together each day in our town school. We have our ups and downs with each other, but get along more often than we do not. Life is not perfect, but neither is yours.

If you knew us, lived with us, celebrated and grieved with us there would be no need for this response. However, it is our experience that most adults simply ignore, disregard or fear teens. How many adults can you see in any given line at a movie even nod recognition of a teen's humanity, much less start a short conversation? We want to start that conversation.

Hey Mister, did you know that some of us do barn chores before we even go to school every morning. We do evening chores, too. In between, we go to school, make honor roll on occasion, play sports, participate in band and chorus and ride the roller coaster of adolescence.

Some of us have part-time jobs to earn the money we want for things. We shovel snow, mow lawns, baby-sit and clean houses for less than minimum wage. We've saved our money for a few years to get what we wanted. We also earn money to buy some of our own clothing, sports equipment and entertainment. Some of us even earn money to contribute to family necessities. Imagine that.

We have a sense of community. Who do you see picking up the trash along our roads and fields during Green Up Day? Who is collecting bottles for a class trip? Who are the crossing guards so younger children won't get hit by cars? Whose clothes have thoughtfully been gone through and chosen with care to give to clothing centers, or victims of fires? We have given our clothes, our bicycles, games, money and music to others in need just because we were asked.

We, the 32 teens of the eighth grade of Barton, have volunteered to carry elders' grocery bags just because we saw them struggling. We also volunteer to shovel out our grandparents' dooryards, and even accept the money they insist we take because we know it makes them feel good, too. We march and play our musical instruments in Memorial Day and Veterans Day parades in honor of those who served. Sometimes we go to local nursing homes and play our instruments or sing. Sometimes we go just to share and talk.

Most of us have family responsibilities that we honor. We split wood and stack it; and move it from one place to another. We trudge through snow and mud to gather sap and help sugar. We do the laundry for the family, set the table, cook some meals, and clean up afterward and empty the trash. We grumble, but we do the chores. We watch our younger brothers and sisters. For the most part, we think we are pretty helpful. Some of us were even responsible for bringing the possibility of recycling into our homes.

Did you know that teens in our community volunteer to tutor younger children? Some of the teens at Lake Region Union High School coach our junior hoop program and referee our games. Most of us would gladly lend a hand if we were asked.

Society says that our job is school. Mandatory. We do that, too. We go, learn, try to learn, and try to learn again. Sometimes we give up but not too often. The dropout rate at Lake Region union High School is less than 2 percent, according to Lake Region Annual Report, Jan. 15, 1997. We might not be in the top 10 percent of the world's smartest kids, but do we really need to be? Society is a problem to us sometimes, too. If you want to separate society into parts, we, as teens and citizens, are not responsible for the pollution of the world, the genocide in most corners, poverty, houseless people, pornography, gridlock and the corruption of our national leaders. Drugs are everywhere. Do we manufacture them or smuggle them into the country? Society has taught us from the first time we viewed a sporting event that beer is where it's at. How are we to sort out the mixed messages we are bombarded with? We listen weekly to the adults in the news who compare us unfavorably with the test scores of other countries. We do not make the movies rated PG–13 that include more profanity than we would ever think of using. Where are the everyday role models that you would like us to emulate?

Our advice—get to know a teen up front and personal. We don't like the word scapegoat for anyone. It makes it too easy to cast the first stone.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND UKRAINE CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 122

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of

the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with Ukraine has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Nonproliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Ukraine under appropriate conditions and controls reflecting our common commitment to nuclear nonproliferation goals.

The proposed new agreement with Ukraine permits the transfer of technology, material, equipment (including reactors), and components for nuclear research, and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components of such facilities. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

Ukraine is a nonnuclear weapon state party to the Treaty on the Nonproliferation of Nuclear Weapons (NPT). Following the dissolution of the Soviet Union, Ukraine agreed to the removal of all nuclear weapons from its territory. It has a full-scope safeguards agreement in force with the International Atomic Energy Agency (IAEA) to implement its safeguards obligations under the NPT. Ukraine was accepted as a member of the Nuclear Suppliers Group in April 1996, and as a member of the NPT Exporters Committee (Zangger Committee) in May 1997.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session provided for in section 123d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 6, 1998.*

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker appoints the following Members as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; and appoints additional conferees from the Committee on Ways and Means, solely for consideration of title XI of the House bill and title VI of the Senate amendment and modifications committed to conference: Mr. NUSSLE, Mr. HULSHOF, and Mr. RANGEL.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 567. An act to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 220. Concurrent resolution regarding American victims of terrorism.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 567. An act to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 220. Concurrent resolution regarding American victims of terrorism; to the Committee on Foreign Relations.

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–4766. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1997–98 Marketing Year" (Docket FV98–905–2 IFR) received on May 4, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4767. A communication from the Acting Assistant Secretary of Defense for Reserve Affairs, transmitting, pursuant to law, notice of the delay of the report on military technical positions; to the Committee on Armed Services.

EC–4768. A communication from the Secretary of Defense, transmitting, notices of military retirements; to the Committee on Armed Services.

EC–4769. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled "Authority to Fund Inspector Expenses From the Organization for the Prohibition of Chemical Weapons"; to the Committee on Armed Services.

EC–4770. A communication from the Executive Director of the Civil Air Patrol, transmitting, pursuant to law, the annual report of the Civil Air Patrol for fiscal year 1997; to the Committee on the Judiciary.

EC–4771. A communication from the Chairman of the Sentencing Commission, transmitting, amendments to the sentencing guidelines, policy statements, and official commentary; to the Committee on the Judiciary.

EC–4772. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Appellate Procedure; to the Committee on the Judiciary.

EC–4773. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Evidence; to the Committee on the Judiciary.

EC–4774. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Civil Procedure; to the Committee on the Judiciary.

EC–4775. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Criminal Procedure; to the Committee on the Judiciary.

EC–4776. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the wiretap report for calendar year 1997; to the Committee on the Judiciary.

EC–4777. A communication from the Director of Operations and Finance, the American Battle Monuments Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC–4778. A communication from the Attorney General, transmitting, pursuant to law, a report on the U.S. Parole Commission for 1998; to the Committee on the Judiciary.

EC–4779. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Amendment of the Definition of Arriving Alien" (RIN1115–AE87) received on April 22, 1998; to the Committee on the Judiciary.

EC–4780. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Screening Requirements of Carriers" (RIN1115–AD97) received on April 29, 1998; to the Committee on the Judiciary.

EC–4781. A communication from the Acting Assistant Attorney General (Office of Legislative Affairs), transmitting, pursuant to law, the report of settlements (Property Damage and Personal Injury) for calendar year 1997; to the Committee on the Judiciary.

EC–4782. A communication from the Associate Attorney General, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC–4783. 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 two rules: "Texas Regulatory Program and Abandoned Mine Land Reclamation Plan (Recodification)" (TX–040–FOR), "Pennsylvania Regulatory Program (Coal refuse disposal)" (PA–112–FOR) received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC–4784. 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 "Maryland Regulatory Program (Bond liability for remined lands)" (MD–042–FOR) received on April 16, 1998; to the Committee on Energy and Natural Resources.

EC–4785. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, the report of a rule entitled "National Forest Exchanges" (RIN1004–AC97) received on April 28, 1998; to the Committee on Energy and Natural Resources.

EC–4786. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, the report of a rule entitled "Royalties on Gas, Gas Analysis Reports, Oil and Gas Production Measurement, Surface Commingling, and Security" (RIN1010–AC23) received on May 1, 1998; to the Committee on Energy and Natural Resources.

EC–4787. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a modification report relative to the safety of dams; to the Committee on Energy and Natural Resources.

EC–4788. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a report on threatened national historic landmarks; to the Committee on Energy and Natural Resources.

EC–4789. A communication from the Acting Deputy Chief of Operations, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities" received on April 20, 1998; to the Committee on Energy and Natural Resources.

EC–4790. A communication from the Acting Associate Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Smith River National Recreation Area" (RIN0596–AB39) received on April 20, 1998; to the Committee on Energy and Natural Resources.

EC–4791. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of Financial Assistant Letter 98–02 received on April 16, 1998; to the Committee on Energy and Natural Resources.

EC–4792. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive regarding In-House Energy Management received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC–4793. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive regarding suspect and counterfeit items received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC–4794. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "A Role for Federal Purchasing in Commercializing New Energy-Efficient and Renewable-Energy Technologies"; to the Committee on Energy and Natural Resources.

EC–4795. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Building Energy Efficiency Standards Activities"; to the Committee on Energy and Natural Resources.

EC–4796. A communication from the Secretary of Energy, transmitting, pursuant to law, the report under the Metal Casting Competitiveness Research Act for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC–4797. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Strategic Petroleum Reserve for calendar year 1997; to the Committee on Energy and Natural Resources.

EC–4798. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to the uranium industry for calendar year 1997; to the Committee on Energy and Natural Resources.

EC–4799. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "International Energy Outlook 1998: With Projections Through 2020"; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following report of committees was submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes.

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. BYRD (for himself and Mrs. HUTCHISON):

S. 2036. A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina; to the Committee on Foreign Relations.

By Mr. HATCH:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes; from the Committee on the Judiciary; placed on the calendar.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. WARNER) (by request):

S. 2038. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 2039. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. Res. 223. A resolution commending the Prince William Sound Community College on twenty years of education service; to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. HOLLINGS, Mr. INOUYE, and Mr. MURKOWSKI):

S. Res. 224. A resolution expressing the sense of the Senate regarding an international project to evaluate and facilitate the exchange of advanced technologies; considered and agreed to.

By Mr. ABRAHAM (for himself and Mr. LIEBERMAN):

S. Con. Res. 94. A concurrent resolution supporting the religious tolerance toward Muslims; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD (for himself and Mrs. HUTCHISON):

S. 2036. A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina; to the Committee on Foreign Relations.

THE BOSNIA FORCE REALIGNMENT ACT

Mr. BYRD. Mr. President, the bill that I introduce today, on behalf of the distinguished Senator from Texas, Mrs. HUTCHISON, and myself, is an attempt to reduce the American portion of the NATO deployment to Bosnia and Herzegovina. It does so in a carefully staged manner over the next 2 years, going from the administration-planned force size of 6,900 ground troops at the end of this June, to 2,500 troops in February, 2000. In the interim, the amendment calls for a force size of 5,000 U.S. troops to be arrived at by February 1999, and 3,500 by July 1999.

This is a gradual drawdown to a level which more accurately approximates the size of the forces of France and Germany at this time. The United States would continue to honor its commitment to NATO to play an appropriate role in the Bosnia stabilization force, but the amendment provides crucial leverage on our allies in Europe to assume the leadership role that is appropriate for them in an operation near their borders in Europe.

The current plan by the administration, including the requirement for meeting a series of general benchmarks in the areas of democratization, an independent press and judiciary, and other reforms, could keep the United States with the leading force in Bosnia for an indefinite period. I do not believe the American people will support the proposition of a semi-permanent deployment with no end-game. Nevertheless, this year, for the first time, the President has said that there is no definite end-game, or exit schedule which he would propose. Thus, the pressure is off our allies to pick up more of the leading role, and our allies are perfectly content to keep the United States spending some $1.8 billion per year on this operation, in addition to the funds we contribute to NATO on an annual basis.

My good friend from the state of Michigan, the ranking member of the Armed Services Committee, Mr. LEVIN, has also been concerned over the permanent nature of the American deployment and the lack of leadership being displayed by our European partners. He has offered a proposal, as a provision in the supplemental appropriations bill, which was approved by the conference committee on that bill, to urge the President to reach an agreement on the deadlines for closure on the various benchmarks in the President's report. This is a good amendment by Mr. LEVIN, and it is a very good starting point, and I am supportive of it, but I am afraid that it does not contain the kind of pressure that would cause the administration to act decisively with our allies on the matter of sharing the burden of leadership in Bosnia. I do not think that the Levin amendment, which, as I say, I strongly support, goes far enough.

The administration seems not to work very effectively, except under the pressure of explicit deadlines and an explicit schedule with specific numbers, dates, and goals. This specificity is provided by the amendment which Mrs. HUTCHISON and I presently intend to offer to the fiscal year 1999 Department of Defense authorization bill when it comes to the floor. I hope that my colleagues will have a careful look at the details of the amendment. I believe that it deserves strong bipartisan support. It is a responsible approach, and it provides the time and the impetus for our allies to get their acts together and begin to take responsibility for the peace of the European Continent. The United States will continue to play an important supporting role in this effort, but I hope we will begin to wean our allies from the overdependence upon the United States that they currently exhibit.

Reports over the last few days on the very disturbing developments in the Serbian province of Kosovo need the focus of the Senate and the administration and of all Americans. These events demonstrate my point. We may well have a catastrophe in the making, and the question of heading off, or at least containing ethnic unrest in Kosovo must be addressed by the administration, as well as by NATO. I don't see any evidence that the administration is moving in the direction of providing that kind of address. There may be steps that we need to take right now to prepare for worst-case eventualities. The administration needs to inform the Senate in detail on its policy regarding the possible scenarios involving the situation in Kosovo.

The amendment offered by Senator HUTCHISON and myself does provide that the forces which we move out of Bosnia proper can be redeployed to the periphery of that troubled region—into Hungary, for instance, and particularly into Macedonia, in an effort to demonstrate to the Serbs and other parties that NATO will not stand for the spreading of the ethnic conflict beyond the borders of Bosnia and Serbia. But the spread of the ethnic conflict in Kosovo is a separate issue which must be addressed by the administration, and I hope that the administration will get busy and give us just such an address. Everything possible should be done to forestall a spread of the ethnic conflict in Kosovo. Bosnia and its violent disposition must be contained and must not be allowed to infect the rest of Europe. We cannot countenance the spread of the ethnic violence into the southern Balkans, and we must do everything that we can to forestall the involvement of Greece and Turkey in future instabilities caused by the Bosnia and Kosovo situations.

The reduction in U.S. forces over a two-year period arranges a sure but gentle glidepath during which a reconfiguration of the composition of allied forces can be accomplished without opening up vulnerabilities for U.S. forces or causing uncertainties on the part of Serbian elements as to the staying power of NATO, while Bosnian unrest remains a threat to the peace of the continent. Yet, history must move in Europe, and the role of leadership on the ground, through the presence of American armies, must transition to one where a healthier balance of responsibility is created. This transition is especially important in light of the recent developments in Kosovo. In the long run, in an era where new states are being incorporated into NATO, and new practices of consensus-building and peacekeeping must be developed among the states of the alliance, Europe must begin to get a surer grasp of its own destiny through a spirit of close cooperation among its European NATO partners.

Mr. President, I hope that my colleagues will review the details of the amendment, and will choose to cosponsor it.

Mr. President, I send the bill to the desk on behalf of the distinguished Senator from Texas, Mrs. HUTCHISON, and myself and I ask that the title be stated.

The PRESIDING OFFICER. The clerk will state the title.

The bill clerk read as follows:

A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina.

Mr. BYRD. Mr. President, the distinguished Senator from Texas and I expect this bill to be referred to the appropriate committee.

The PRESIDING OFFICER. The bill will be appropriately referred.

Mr. BYRD. As of now, Mr. President, I yield the remainder of whatever time I would have had to Mrs. HUTCHISON, that she may add it to the amount of time that she would have had under the request.

Let me express my appreciation for her cosponsorship of this amendment. She will work hard on its behalf as I will, and I feel honored and fortunate to have her as cosponsor of the bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, how much time is left on our amendment?

The PRESIDING OFFICER. Twenty-four minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I want to say how pleased I am to be working with my colleague, the senior Senator from West Virginia, who was honored last night on the Senate floor for having cast the most number of votes of any Senator in the history of our country—

15,000. It was quite awesome. I am pleased to have someone of his stature and experience to take the lead on this very important act that we hope the Senate will pass in the form of an amendment to the defense authorization bill, or failing that, the appropriations bill, because it is time that Congress step up to the line and fulfill its constitutional responsibility for allocating the military dollars.

Mr. President, as the senior Senator from West Virginia has stated, our bill will begin the orderly and honorable withdrawal of U.S. ground forces from the Republic of Bosnia and Herzegovina.

U.S. forces in Bosnia have accomplished the military mission assigned to them. They were sent to enforce the Dayton peace accords by keeping the warring factions separated. We all owe our troops a debt of gratitude for having done this with no combat loss of life to any American.

I have just returned this weekend from my seventh trip to the Balkans. I saw a well-trained professional force capable of performing any mission that we would give them as long as we give them the support they need. But I also saw a force on a mission with no clear direction and certainly no exit strategy. It has no end date. These troops have been spending more and more time away from home than at any other point in their careers.

The continuing and open-ended commitment of U.S. ground forces in Bosnia is subject to the oversight authority of Congress. When we narrowly voted to support this mission in 1995, I voted against it because I was afraid what would happen is exactly what is happening. We are now in an open-ended mission. This was not supposed to be an open-ended mission. It was supposed to be a 1-year commitment. That deadline was missed and the next deadline was missed.

It is very important that we have an exit strategy. The Secretary of Defense, and the Chairman of the Joint Chiefs, have said an exit strategy and an exit date is most important if we are not going to have mission creep. But, in fact, what I fear is that we do have mission creep in Bosnia, and as a matter of fact, we also have deadline creep.

NATO forces have increased their participation in police activities, something for which they are not trained. General Joulwan has said our military forces are not trained for police missions, and yet that is what they are doing more and more.

U.S. commanders in NATO have stated on several occasions that, in accordance with the Dayton peace accords, the principal responsibility for law enforcement rests with the parties to the Dayton agreement—the Serbs, the Croats, and the Muslims.

In a recent letter to Congress, President Clinton identified a host of additional missions that seem to go well beyond the peacekeeping scope of the U.S. forces in Bosnia and are aimed really at nation-building. These include—and I quote from his letter—"supporting * * * the conduct of elections and the installation of elected officials," and "supporting * * * media reform efforts."

During our recent trip we were briefed that establishing a rule of law and a judiciary were also among the criteria that must be established prior to our troops' withdrawal.

Mr. President, these are goals that could take 50 years to achieve, and they define a mission without an exit strategy. I would just say that the distinguished Senator who is presiding at this moment was also in the meetings we had in Bosnia this weekend. I think I speak for all of us who were there in saying that what we were told about an end date is a recipe for a mission with no exit strategy. Congress has had little to say, as the President has authorized an ever-longer commitment of troops for an ever-growing number of missions.

I believe that exceeds the war power authority of the President, although this is debatable and I cannot say that it is totally clear. But while the Constitution leaves some issues unsettled regarding war powers, there is no such conflict over the power of the purse. The Congress alone has the power. We have the responsibility to provide the money for our military and to look at the big picture.

The big picture, Mr. President, is that our troops are being flung around the world in police missions and peacekeeping missions, and we are losing the edge that a superpower must have to be able to act when no one else can or no one else will.

Senator BYRD and I do not want Congress to ever shrink from its constitutional responsibility. And it is Senator BYRD who understands the Constitution better than anyone on this floor. But I, as a new Member, am trying to see things in a way that our Founding Fathers intended and to remain true to the balance of power that they attempted to create.

Our bill is aimed at getting our European allies to start taking a greater share of the responsibility for their own regional security matters. This will free the United States to respond where our allies cannot or will not and where the United States is the only power that is capable of doing so.

It is in the interest of our allies that we maintain the capability to keep the world safe from threats that would endanger our mutual security. The United States has nearly twice the number of troops on the ground as our next closest ally, Great Britain. We have three times more than the French and German allies.

Our bill provides for a gradual-phased timetable of reduction of the level of U.S. troops so that by February in the year 2000 the American ground combat level would not exceed 2,500. This timetable is consistent with the stated objectives of the Clinton administration.

In a recent letter to several Senators, President Clinton said, "The deployment will not be open-ended . . . SFOR will be progressively reduced.

Mr. President, the Senator from West Virginia and I hope to aid the administration by offering a credible and orderly timetable for such reductions so that we can provide the ability to finance the mission with some sense that we will know what to expect.

Our bill provides 6,900 troops by June 30, 1998; 5,000 by February 2, 1999; 3,500 by June 30, 1999; and 2,500 by February 2, 2000.

Our bill exempts from these totals those forces that are needed to protect the U.S. troops as the drawdowns proceed. We also exempt those forces necessary to protect U.S. diplomatic facilities. Most important, we exempt any U.S. ground forces which may be deployed as part of NATO containment operations in regions surrounding the Republic of Bosnia and Herzegovina.

It is my belief that one of our principal objectives in the Balkans should be to prevent the conflict in Bosnia from spilling over into neighboring European countries. Should the President propose to establish a NATO containment perimeter around Bosnia, our bill would permit that.

Why is our legislation needed? What does it have to do with military readiness? Just last week this Congress approved adding a half a billion dollars to the Bosnia operation. This brings our total to $8 billion. The President has asked for another $2 billion for the next year. That makes a $10 billion operation, five times the original estimate this administration gave Congress.

Where is this money coming from? It is coming from future readiness. We are borrowing from the future to pay for a mission that is clearly capable of being performed by countries other than the world's only superpower. If they can do this, the United States can be ready to respond in other areas where we have mutual security threats with our allies, such as the Middle East and Asia.

There are ample indications that our readiness has begun to suffer as we have drawn forces and resources off to support regional conflicts. In the U.S. Pacific Command, the commander in chief testified before Congress that some forces required for long-term commitments in the Asia-Pacific area of responsibility are now positioned in the Persian Gulf. He further reports that the Pacific fleet is short over 1,900 sailors in key technical ratings.

In the Pacific Air Forces, the F–16 cannibalization rate is 12.8 percent—a more than 100 percent increase since 1995 due to lack of spare parts.

The Army faces similar shortfalls. A recent Army Times report revealed that while the 1st Armored Division was staffed at 94 percent, its combat support and service support specialties were filled at below 85 percent, and captains and majors were filled at 73 percent. Noncommissioned officers are also in short supply in the divisions, particularly sergeants. In the 10th Division, 24 of 162 infantry squads were not fully or only minimally filled.

According to Major General Carl Ernst, commanding general of the Army's premier infantry training post at Fort Monroe, VA, this is having a serious negative impact on the Army. General Ernst recently told a congressional panel at Fort Monroe, "We are now dangerously close to the breaking point."

What about the Air Force? In the Air Force, only 29 percent of the pilots eligible for a $60,000 bonus to sign up for 5 more years signed up. That is half the number that took that bonus last year.

Our military is stretched to the breaking point. Our military cannot continue to provide peacekeeping operations all over the world. This causes them to lose the skills for which they have been trained and dulls their fighting edge. We are letting it happen because the operations tempo is too high and the amount of money we have is finite.

What is suffering is the quality of life of our military. We are losing our most experienced people. Also our modernization suffers as we try to keep our best planes in the air, with the parts that they need to function, and, perhaps most important, the systems that we will need to meet the future security risks of our country and those of all of our allies. This includes the threat of an incoming ballistic missile with a nuclear, chemical, or biological weapon. We know that 30 countries in the world have ballistic missile capabilities, yet we are not deploying as quickly as possible any defenses.

What the Senator from West Virginia and I are asking is that our allies, who are perfectly capable of performing these peacekeeping missions as well as anyone can, take that responsibility. Let the United States build our forces through modernization and technology and develop missile defense systems so that we can be there if there is a real threat to our mutual security. We cannot have a military that is unable to respond. We must not have a military that is not respected by our allies, nor our adversaries.

The Senator from West Virginia has stood for the constitutional responsibility of Congress. I hope to follow in his footsteps in always reminding our Senate of the importance that we uphold our one-third of the balance of power in our Government. Our one-third is that we must be the stewards of the funds. Only Congress was empowered to declare war. I do not believe that our Founding Fathers intended for us to be sending troops abroad in operations other than war. They intended it to be a tough decision, to put our troops in harm's way.

Mr. President, I am going to stand for the U.S. Senate's responsibility to assure that we do not fling our troops around the world in operations other than war and dissipate our resources and our readiness. I am proud to cosponsor with the Senator from West Virginia the bill that will begin the orderly and responsible exit from Bosnia, with our allies, as a team, coming together and sharing this burden in a way that meets the regional test and meets our responsibility in the world to do that which no one else can.

I thank the Senator from West Virginia for his leadership in this area. I hope we will have the strongest bipartisan support for our bill so that we can make this law, so that our allies will know that when we say we are going to do something—whether it is something they like or don't like—that we will keep our word. That is in their best interests as well as ours.

I yield the floor.

Mr. BYRD. How much time remains?

The PRESIDING OFFICER. Six and a half minutes.

Mr. BYRD. I thank the distinguished Senator from Texas for a very knowledgeable and forceful statement, well articulated, and one which shows a great deal of wisdom with respect to the impact upon the readiness of our military forces, the impact caused by having our forces in Europe under the circumstances which we have described.

Mr. President, in order that Senators may be well informed as to the substance of the bill which the Senator from Texas and I are introducing, I ask unanimous consent it be printed in the RECORD.

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

S. 2036

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 "Bosnia Force Realignment Act".

SEC. 2. FINDINGS.

(a) The Congress finds the following:

(1) United States Armed Forces in the Republic of Bosnia and Herzegovina have accomplished the military mission assigned to them as a component of the Implementation and Stabilization Forces.

(2) The continuing and open-ended commitment of U.S. ground forces in the Republic of Bosnia and Herzegovina is subject to the oversight authority of the Congress;

(3) Congress may limit the use of appropriated funds to create the conditions for an orderly and honorable withdrawal of U.S. troops from the Republic of Bosnia and Herzegovina;

(4) On November 27, 1995, the President affirmed that United States participation in the multinational military Implementation Force in the Republic of Bosnia and Herzegovina would terminate in about one year.

(5) The President declared the expiration date of the mandate for the Implementation Force to be December 20, 1996.

(6) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed confidence that the Implementation Force would complete its mission in about one year.

(7) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed the critical importance of establishing a firm deadline, in the absence of which there is a potential for expansion of the mission of U.S. forces;

(8) On October 3, 1996, the Chairman of the Joint Chiefs of Staff announced the intention of the United States Administration to delay the removal of United States Armed Forces personnel from the Republic of Bosnia and Herzegovina until March 1997.

(9) In November 1996 the President announced his intention to further extend the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(10) The President did not request authorization by the Congress of a policy that would result in the further deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(11) Notwithstanding the passage of two previously established deadlines, the reaffirmation of those deadlines by senior national security officials, and the endorsement by those same national security officials of the importance of having a deadline as a hedge against an expanded mission, the President announced on December 17, 1997 that establishing a deadline had been a mistake and that U.S. ground combat forces were committed to the NATO-led mission in Bosnia for the indefinite future;

(12) NATO military forces have increased their participation in law enforcement, particularly police, activities;

(13) U.S. Commanders of NATO have stated on several occasions that, in accordance with the Dayton Peace Accords, the principal responsibility for such law enforcement and police activities lies with the Bosnian parties themselves.

SEC. 3. LIMITATIONS ON THE USE OF FUNDS.

(a) Funds appropriated or otherwise made available for the Department of Defense for any fiscal year may not be obligated for the ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina except as conditioned below;

(1) The President shall continue the ongoing withdrawal of American forces from the NATO Stabilization Force in the Republic of Bosnia and Herzegovina such that U.S. ground forces in that force or the planned multi-national successor force shall not exceed:

(i) 6900, by June 30, 1998;

(ii) 5000, by February 2, 1999;

(iii) 3500, by June 30, 1999, and;

(iv) 2500, by February 2, 2000.

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply—

(1) to the extent necessary for U.S. ground forces to protect themselves as the drawdowns outlined in sub-paragraph (a)(1) proceeds;

(2) to the extent necessary to support a limited number of United States military personnel sufficient only to protect United States diplomatic facilities in existence on the date of the enactment of this Act; or

(3) to the extent necessary to support noncombat military personnel sufficient only to advise the commanders North Atlantic Treaty Organization peacekeeping operations in the Republic of Bosnia and Herzegovina; and

(4) to U.S. ground forces that may be deployed as part of NATO containment operations in regions surrounding the Republic of Bosnia and Herzegovina.

(c) CONSTRUCTION OF SECTION.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(d) LIMITATION ON SUPPORT FOR LAW ENFORCEMENT ACTIVITIES IN BOSNIA.—None of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended after the date of the enactment of this Act for the:

(1) Conduct of, or direct support for, law enforcement and police activities in the Republic of Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life.

(2) Conduct of, or support for, any activity in the Republic of Bosnia and Herzegovina that may have the effect of jeopardizing the primary mission of the NATO-led force in preventing armed conflict between the Federation of Bosnia and Herzegovina and the Republika Srpska ('Bosnian Entities').

(3) Transfer of refugees within the Republic of Bosnia and Herzegovina that, in the opinion of the commander of NATO Forces involved in such transfer—

(A) has as one of its purposes the acquisition of control by a Bosnian Entity of territory allocated to the other Bosnian Entity under the Dayton Peace Agreement; or

(B) may expose United States Armed Forces to substantial risk to their personal safety.

(4) Implementation of any decision to change the legal status of any territory within the Republic of Bosnia and Herzegovina unless expressly agreed to by all signatories to the Dayton Peace Agreement.

SEC. 4. PRESIDENTIAL REPORT.

(a) Not later than December 1, 1998, the President shall submit to Congress a report on the progress towards meeting the drawdown limit established in section 2(a).

(b) The report under paragraph (a) shall include an identification of the specific steps taken by the United States Government to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to European allied nations or organizations.

By Mr. HATCH:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes; from the Committee on the Judiciary; placed on the calendar.

DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. LEAHY. Mr. President, the Digital Millennium Copyright Act, which the Senate Judiciary Committee is reporting today, is important for our economy, for our creative industries and for the future of the Internet. This legislation is based on the WIPO implementing legislation, S. 1121, recommended by the Administration and introduced last year by the Chairman, Senators THOMPSON and KOHL and me.

Following intensive discussions with a number of interested parties, including libraries, universities, small businesses, online and Internet service providers, telephone companies, computer users, broadcasters, content providers and device manufacturers, the Committee was able to reach unanimous agreement on certain modifications and additions incorporated into the bill and making this bill a product of which we can all be proud.

Significant provisions were added to the bill in Title II to clarify the liability for copyright infringement of online and Internet service providers. These provisions set forth "safe harbors" from liability for ISPs and OSPs under clearly defined circumstances, which both encourage responsible behavior and protect important intellectual property rights. In addition, during the Committee's consideration of this bill, an Ashcroft-Leahy-Hatch amendment was adopted to ensure that computer users are given reasonable notice of when their Web sites are the subject of infringement complaints, and to provide procedures for computer users to have material mistakenly taken down put back.

This bill contains a number of provisions designed to help libraries and archives. First, libraries expressed concerns about the possibility of criminal sanctions or potentially ruinous monetary liability for actions taken in good faith. This bill makes sure that libraries acting in good faith can never be subject to fines or civil damages. Specifically, a library is exempt from monetary liability in a civil suit if it was not aware and had no reason to believe that its acts constituted a violation. In addition, libraries are completely exempt from the criminal provisions.

Second, the bill contains a browsing exception for libraries. Libraries have indicated that in an online environment dominated by encrypted works it may be impossible for them to gain access to works to decide whether or not to acquire them. The current version of the bill permits libraries to circumvent access prevention technologies in order to make a good faith determination of whether or not it would like to buy a copy of a work. If the library decides that it wishes to acquire the work it must negotiate with the copyright owner just as libraries do today.

Third, the Chairman, Senator ASHCROFT and I crafted an amendment to provide for the preservation of digital works by qualified libraries and archives. The ability of Libraries to preserve legible copies of works in digital form is one I consider critical. Under present law, libraries are permitted to make a single facsimile copy of works in their collections for preservation purposes, or to replace lost, damaged or stolen copies of works that have become commercially unavailable. This law, however, has become outmoded by changing technology and preservation practices. The bill ensures that libraries' collections will continue to be available to future generations by permitting libraries to make up to three copies in any format—including in digital form. This was one of the proposals in the National Information Infrastructure Copyright Protection Act of 1995, which I sponsored in the last Congress. The Register of Copyrights, among others, has supported that proposal.

In addition, the bill would permit a library to transfer a work from one digital format to another if the equipment needed to read the earlier format becomes unavailable commercially. This change addresses a problem that should be familiar to anyone whose office has boxes of eight-inch floppy disks tucked away somewhere.

These provisions go a long way toward meeting the concerns that libraries have expressed about the original bill, S. 1121, introduced to implement the WIPO treaties.

Another issue that the bill addresses is distance learning. When Congress enacted the present copyright law it recognized the potential of broadcast and cable technology to supplement classroom teaching, and to bring the classroom to those who, because of their disabilities or other special circumstances, are unable to attend classes. At the same time, Congress also recognized the potential for unauthorized transmissions of works to harm the markets for educational uses of copyrighted materials. In the present Copyright Act, we struck a careful balance and crafted a narrow exemption. But as with so many areas of copyright law, the advent of digital technology requires us to take another look at the issue.

I recognize that the issue of distance learning has been under consideration for the past several years by the Conference on Fair Use (CONFU) that was established by the Administration to consider issues relating to fair use in the digital environment. In spite of the hard work of the participants, CONFU has so far been unable to forge a comprehensive agreement on guidelines for the application of fair use to digital distance learning. The issue is an important one, and I commend Senator ASHCROFT for his attention to this matter.

We made tremendous strides in charting the appropriate course for updating the Copyright Act to permit the use of copyrighted works in valid distance learning activities. The Chairman, Senator ASHCROFT and I joined together to ask the Copyright Office to facilitate discussions among interested library and educational groups and content providers with a view toward making recommendations that could be incorporated into the DMCA at the

April 30 mark up. The Copyright Office did just that, once again providing a valuable service to this Committee.

Based on the Copyright Office's recommendations, we incorporated into the DMCA a new Section 122 requiring the Copyright Office to make broader recommendations to Congress on digital distance education within six months. Upon receiving the Copyright Office's recommendations, it is my hope that the Senate Judiciary Committee will promptly commence hearings on the issue and move expeditiously to enact further legislation on the matter. I know that my fellow members on this Committee are as anxious as I am to complete the process that we started in Committee of updating the Copyright Act to permit the appropriate use of copyrighted works in valid distance learning activities. This step should be viewed as a beginning—not an end, and we are committed to reaching that end point as quickly as possible.

Senator FEINSTEIN had sought to clarify when a university would be held responsible for the actions of its employees in connection with its eligibility for the safe harbors spelled out in title II of the bill. Chairman HATCH, Senator ASHCROFT and I agreed with Senator FEINSTEIN that the best way to address this issue is to have the Copyright Office examine this issue in a comprehensive fashion, because of its importance, complexity, and implications for other online service providers, including libraries and archives.

Amendments sponsored by Senators ASHCROFT, HATCH and I were also crafted to address the issues of reverse engineering, ephemeral recordings and to clarify for broadcasters the use of copyright management information in the course of certain analog and digital transmissions.

Legislative language was incorporated into the bill to clarify that the law enforcement exemptions apply to all government agencies which conduct law enforcement and intelligence work, as well as to government contractors engaging in intelligence, investigative, or protective work.

Chairman HATCH, Senator ASHCROFT and I agreed to language to assuage the concerns of the consumer electronics manufacturers, and others, that the bill might require them to design their products to respond to any particular technological protection measure. We also agreed to incorporate provisions into the bill clarifying that nothing in the bill will prevent parents from controlling their children's access to the Internet or individuals from protecting personal identifying information.

By reaching agreement on this bill, this Committee is helping to create American jobs, protect American ingenuity, and foster an ever more vibrant Internet. In short, the WIPO treaties and this implementing legislation are important to America's economic future. The bill addresses the problems caused when copyrighted works are disseminated through the Internet and other electronic transmissions without the authority of the copyright owner. By establishing clear rules of the road, this bill will allow electronic commerce to flourish in a way that does not undermine America's copyright community.

In a recent letter about the DMCA, Secretary Daley said, "The United States must lead the way in setting a standard that will protect our creative industries and serve as a model for the rest of the world. And we need to act as quickly as possible."

This bill is a well-balanced package of proposals that address the needs of creators, consumers and commerce well into the next century. I urge all of my colleagues to support the Digital Millennium Copyright Act and work for its prompt passage.

Mr. KOHL. Mr. President, I rise to express my support for the Digital Millennium Copyright Act of 1998. In my view, we need this measure to stop an epidemic of illegal copying of protected works—such as movies, books, musical recordings, and software. The copyright industry is one of our most thriving businesses. But we still lose more than $15 billion each year due to foreign copyright piracy, according to some estimates.

This foreign piracy is out of control. For example, one of my staffers investigating video piracy on a trip to China walked into a Hong Kong arcade and bought three bootlegged computer games—including "Toy Story" and "NBA '97"—for just $10. These games normally sell for about $100. Indeed, the manager was so brazen about it, he even agreed to give a receipt.

Illegal copying has been a longstanding concern to me. I introduced one of the precursors to this bill, the Motion Picture Anti-Piracy Act, which in principle has been incorporated into this measure. And I was one of the original cosponsors of the original proposed WIPO implementing legislation, the preliminary version of this measure.

In my opinion, this bill achieves a fair balance by taking steps to effectively deter piracy, while still allowing fair use of protected materials. It is the product of intensive negotiations between all of the interested parties—including the copyright industry, telephone companies, libraries, universities and device manufacturers. And every major concern raised during that process was addressed. For these reasons, it earned the unanimous support of the Judiciary Committee. Of course, as with any legislation, some tinkering may still be needed.

I am confident that this bill has the best approach for stopping piracy and strengthening one of our biggest export industries. It deserves our support.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. WARNER) (by request):

S. 2038. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; to the Committee on Environment and Public Works.

THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Mr. CHAFEE. Mr. President, today I am introducing the John F. Kennedy Center for the Performing Arts Authorization Act. I am introducing this bill at the request of the Kennedy Center Board of Trustees, in my capacity as Chairman of the Committee on Environment and Public Works. Joining me as cosponsors of the bill are the chairman and ranking member of the Subcommittee on Transportation and Infrastructure, Senators WARNER and BAUCUS.

The concept of a national center for the performing arts originated during the administration of President Dwight D. Eisenhower. President Eisenhower envisioned a national cultural center in the nation's capital, and in 1958, with the support of Congress, he signed into law the National Cultural Center Act, which established the Center as an independently administered bureau of the Smithsonian Institution. Following the death of President Kennedy, the Congress in 1964 renamed the Center in honor of the late president.

The Kennedy Center was opened to the public in September 1971. The response was overwhelming—so much so that the Center's Board of Trustees requested help from Congress in maintaining and operating the Center, for the benefit of the millions of visitors. In 1972, Congress authorized the National Park Service to provide maintenance, security, and other services necessary to maintain the facility. For the next two decades, the Park Service received federal appropriations for the maintenance and operation of the Presidential monument.

In the early part of this decade, however, it became clear that the Kennedy Center facility—which had not seen comprehensive capital repair since its opening—had deteriorated significantly due to both age and intensive public use. Those repairs that had taken place—such as the 1977 repair of the leaking roof—were undertaken in response to threatening conditions. The Board of Trustees, with the support of the Park Service, therefore set out to achieve a more effective long-term approach to management of the facility, with one entity responsible for both the care of the physical plant and the staging of performance activities.

In 1994, therefore, Congress approved and the President signed the John F. Kennedy Center Act Amendments

(Public Law 103–279). That Act authorized the transfer of all capital repair, operations, and maintenance of the facility from the Park Service to the Board of Trustees.

The Act also directed the Board to develop a comprehensive, multi-year plan for the restoration and ongoing maintenance of the Kennedy Center. In 1995, the Board delivered the Comprehensive Building Plan, which set forth a long-term, two-stage program for the remediation of substandard building conditions, as well as continuous maintenance for the future. Phase I, scheduled for Fiscal Years 1995 through 1998, has concluded successfully. During this time, several major projects were completed, including the installation of a new, energy-efficient heating and cooling system, replacement of the leaking roof and roof terrace, and the major renovation of the Concert Hall. Phase II is scheduled to take place over the next eleven fiscal years, through Fiscal Year 2009. This stage will involve the massive "Center Block" project, during which the Opera House will be overhauled, as well as projects to make improvements to the plaza, improve accessibility to the theaters, install fire and other safety technology, and make a host of other repairs designed to ensure that the facility meets life safety standards.

That brings us to the legislation I am introducing today. For the major Phase II projects to get underway, Congress must revise the 1994 Act to authorize appropriate funding for the next several fiscal years. The bill I am introducing today authorizes significant funding levels for the next eleven fiscal years for maintenance as well as capital repair work.

Over the next several weeks, I and other members of the Committee on Environment and Public Works intend to review carefully the planned repair activities and the authorization request. The Kennedy Center is a living Presidential memorial and a national monument, and as such demands a high standard of maintenance and upkeep. As an ex-officio member of the Board, and Chairman of the authorizing Committee, I am dedicated to the appropriate restoration and preservation of the facility, which millions of Americans have enjoyed for more than a quarter of a century. Nevertheless, it is Congress' duty on behalf of the taxpayers to scrutinize this request closely. I look forward to working with my colleagues in the Senate, the Administration, and the Kennedy Center Board to ensure that we allocate federal resources in an effective and responsible manner.

By Mr. BINGAMAN:

S. 2039. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Energy and Natural Resources.

THE EL CAMINO REAL DE TIERRA ADENTRO NATIONAL TRAIL ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail. This legislation is important to New Mexico and contributes to the national dialogue on the history of this country and who we are as a people.

In history classes across the country, children learn about the establishment of European settlements on the East Coast, and the east to west migration which occurred under the banner of Manifest Destiny. We in New Mexico, however, also know the story of the northward exploration and settlement of this country by the Spanish, a little known but important piece of America's history.

My legislation recognizes a proud chapter in American history; the northward exploration and settlement of the Southwest by the Spanish. Building upon a network of trade routes used by the indigenous Pueblos along the Rio Grande, Spanish explorers established a migration route into the interior of the continent which they called "El Camino Real de Tierra Adentro," the Royal Road of the Interior. My bill will amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail, and give the National Park Service a mandate to develop interpretive displays explaining the importance of the trail during the Spanish settlement of the southwest United States.

This legislation is especially appropriate in this year of the Cuartocentenario, which commemorates the 400th anniversary of the establishment of the first Spanish capital at San Juan Pueblo, the first terminus of the El Camino Real de Tierra Adentro.

In 1598, almost a decade before the first English colonists landed at Jamestown, Virginia, Don Juan de Oñate led a Spanish expedition which established the northern portion of El Camino Real de Tierra Adentro. The road was the main route for communication and trade between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros, San Gabriel and then Santa Fe, New Mexico.

From 1598 to 1821 El Camino Real de Tierra Adentro facilitated the exploration, conquest, colonization, settlement, religious conversion, and military occupation of the borderlands. The Spanish influence from that period can still be seen today in the ethnic and cultural traditions of the southwestern United States.

In the 17th century, caravans of wagons and livestock struggled for months to cross the desert and bring supplies up El Camino Real to missions, mining towns and settlements in New Mexico. On one section known as the Jornada del Muerto, or Journey of Death, they traveled for 90 miles without water, shelter, or firewood. Wagons heading south carried the products of New Mexico to markets in Mexico.

El Camino Real became an integral part of an international network of commerce between Europe, the United States, New Mexico and other provinces of the Mexican republic. The route is a symbol of the commercial exchange and cultural interaction between nations and diverse ethnic groups that led to the development of the southwestern United States. It is also a proud symbol of the contributions of Hispanic people to the development of this great country.

As we enter the 21st century, it's essential that we embrace the diversity of people and cultures that make up our country. It is the source of our dynamism and strength. I look forward to helping to advance our understanding of our rich cultural history through this initiative.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2039

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 "El Camino Real de Tierra Adentro National Historic Trail Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) El Camino Real de Tierra Adentro (the Royal Road of the Interior), served as the primary route between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros (1598–1600), San Gabriel (1600–1609) and Santa Fe (1610–1821);

(2) the portion of El Camino Real in what is now the United States extended between El Paso, Texas, and present San Juan Pueblo, New Mexico, a distance of 404 miles;

(3) El Camino Real is a symbol of the cultural interaction between nations and ethnic groups and of the commercial exchange that made possible the development and growth of the borderland;

(4) American Indian groups, especially the Pueblo Indians of the Rio Grande, developed trails for trade long before Europeans arrived;

(5) in 1598, Juan de Oñate led a Spanish military expedition along those trails to establish the northern portion of El Camino Real;

(6) during the Mexican National Period and part of the United States Territorial Period, El Camino Real facilitated the emigration of people to New Mexico and other areas that were to become part of the United States;

(7) the exploration, conquest, colonization, settlement, religious conversion, and military occupation of a large area of the borderland was made possible by El Camino Real, the historical period of which extended from 1598 to 1882;

(8) American Indians, European emigrants, miners, ranchers, soldiers, and missionaries used El Camino Real during the historic development of the borderland, promoting cultural interaction among Spaniards, other Europeans, American Indians, Mexicans, and Americans; and

(9) El Camino Real fostered the spread of Catholicism, mining, an extensive network of commerce, and ethnic and cultural traditions including music, folklore, medicine, foods, architecture, language, place names, irrigation systems, and Spanish law.

SEC. 3. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended—

(1) by designating the paragraphs relating to the California National Historic Trail, the Pony Express National Historic Trail, and the Selma to Montgomery National Historic Trail as paragraphs (18), (19), and (20), respectively; and

(2) by adding at the end the following:

"(21) EL CAMINO REAL DE TIERRA ADENTRO.—

"(A) IN GENERAL.—El Camino Real de Tierra Adentro (the Royal Road of the Interior) National Historic Trail, a 404 mile long trail from the Rio Grande near El Paso, Texas to San Juan Pueblo, New Mexico, as generally depicted on the maps entitled 'United States Route: El Camino Real de Tierra Adentro', contained in the report prepared pursuant to subsection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de Tierra Adentro, Texas-New Mexico', dated March 1997.

"(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

"(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior.

"(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

"(E) VOLUNTEER GROUPS; CONSULTATION.—The Secretary of the Interior shall—

"(i) encourage volunteer trail groups to participate in the development and maintenance of the trail; and

"(ii) consult with affected Federal, State, and tribal agencies in the administration of the trail.

"(F) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.".

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. GRAMS, his name was withdrawn as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 831

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 1002

At the request of Mr. ABRAHAM, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1002, a bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes.

S. 1141

At the request of Mr. JOHNSON, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1180

At the request of Mr. KEMPTHORNE, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1252

At the request of Mr. DODD, his name 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.

At the request of Mr. GRAHAM, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1252, supra.

S. 1283

At the request of Mr. BUMPERS, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1334

At the request of Mr. BOND, the names of the Senator from Nebraska (Mr. KERREY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1525

At the request of Mr. SPECTER, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 1525, a bill to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

S. 1679

At the request of Mr. SARBANES, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1679, a bill to modify the conditions that must be met before certain alternative pay authorities may be excerised by the President with respect to Federal employees.

S. 1693

At the request of Mr. THOMAS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1693, a bill to renew, reform, reinvigorate, and protect the National Park System.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1959

At the request of Mr. COVERDELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1959, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 1981

At the request of Mr. HUTCHINSON, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 1985

At the request of Mr. HATCH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1985, a bill to amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968.

SENATE CONCURRENT RESOLUTION 75

At the request of Mr. FEINGOLD, the names of the Senator from Montana (Mr. BURNS), the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. AKAKA), the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. HELMS), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Georgia (Mr. CLELAND), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from Nebraska (Mr. KERREY), the Senator from Rhode Island (Mr. REED), the Senator from Florida (Mr. GRAHAM), the Senator from Montana (Mr. BAUCUS), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of Senate Concurrent Resolution 75, a concurrent resolution honoring the sesquicentennial of Wisconsin statehood.

SENATE RESOLUTION 216

At the request of Mr. LIEBERMAN, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Oklahoma (Mr. INHOFE), the Senator from Hawaii (Mr. INOUYE), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of Senate Resolution 216, a resolution expressing the sense of the Senate regarding Japan's difficult economic condition.

SENATE CONCURRENT RESOLUTION 94—SUPPORTING RELIGIOUS TOLERANCE TOWARD MUSLIMS

Mr. ABRAHAM (for himself and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 94

Whereas the American Muslim community, comprised of approximately 5,000,000 people, is a vital part of our Nation, with more than 1,500 mosques, Islamic schools, and Islamic centers in neighborhoods across the United States;

Whereas Islam is one of the great Abrahamic faiths, whose significant contributions throughout history have advanced the fields of math, science, medicine, law, philosophy, art, and literature;

Whereas the United States is a secular nation, with an unprecedented commitment to religious tolerance and pluralism, where the rights, liberties, and freedoms guaranteed by the Constitution are guaranteed to all citizens regardless of religious affiliation;

Whereas Muslims have been subjected, simply because of their faith, to acts of discrimination and harassment that all too often have led to hate-inspired violence, as was the case during the rush to judgment in the aftermath of the tragic Oklahoma City bombing;

Whereas discrimination against Muslims intimidates American Muslims and may prevent Muslims from freely expressing their opinions and exercising their religious beliefs as guaranteed by the first amendment to the Constitution;

Whereas American Muslims have regrettably been portrayed in a negative light in some discussions of policy issues such as issues relating to religious persecution abroad or fighting terrorism in the United States;

Whereas stereotypes and anti-Muslim rhetoric have also contributed to a backlash against Muslims in some neighborhoods across the United States; and

Whereas all persons in the United States who espouse and adhere to the values of the founders of our Nation should help in the fight against bias, bigotry, and intolerance in all their forms and from all their sources: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress condemns anti-Muslim intolerance and discrimination as wholly inconsistent with the American values of religious tolerance and pluralism;

(2) while Congress respects and upholds the right of individuals to free speech, Congress acknowledges that individuals and organizations that foster such intolerance create an atmosphere of hatred and fear that divides the Nation;

(3) Congress resolves to uphold a level of political discourse that does not involve making a scapegoat of an entire religion or drawing political conclusions on the basis of religious doctrine; and

(4) Congress recognizes the contributions of American Muslims, who are followers of one of the three major monotheistic religions of the world and one of the fastest growing faiths in the United States.

Mr. ABRAHAM. Mr. President, I rise today to introduce S. Con. Res. 94, which encourages religious tolerance toward Muslims in America. I am proud to join my colleague, Senator JOE LIEBERMAN, in co-sponsoring this legislation. S. Con Res. 94 calls upon Congress to lead the effort in condemning anti-Muslim intolerance and discrimination.

Many may ask why a resolution such as this needs to be introduced in Congress. The answer is, unfortunately, that some Muslims in America have been subjected to discrimination and harassment based simply upon their religious beliefs. This, Mr. President, is inimical to the protections of our Constitution, and to our long-held, fundamental beliefs concerning religious tolerance and pluralism.

It is important to note that Islam is one of the three great monotheistic religions based upon the teachings of Abraham. The American Muslim community, numbering close to 5 million, is a vibrant part of our nation. The many mosques, Islamic schools and centers across America serve to remind us all that Islam has contributed to advancements in the fields of mathematics, science, medicine, law, philosophy, art and literature. Furthermore, many Americans of the Muslim faith are leaders in their communities, and successes in their professions.

It is my sincere hope that our colleagues will join us in taking a stand against anti-Muslim intolerance and discrimination by co-sponsoring this legislation.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I am proud to join Senator ABRAHAM in submitting this resolution recognizing the need—indeed the obligation—for our nation to show greater tolerance towards Americans of Muslim faith. Tolerance for people of all faiths was among the founding principles of our nation. Since the early 17th Century, when the Puritans fled to America seeking the religious freedom that was denied them in England, our nation has cherished religious pluralism and ingrained in its people the value of allowing every person to worship according to the dictates of his or her own conscience. When the Framers drafted the Constitution, they saw this principle as so important, so sacrosanct, that they enshrined religious freedom not once, but twice, in the Bill of Rights' very first Amendment. Perhaps because of this constitutional mandate, or perhaps because of the resulting tolerance the First Amendment has engendered in our society, our nation has in the more than 200 years since it began become a haven for those seeking both refuge from religious persecution and a society accepting and nurturing of a pluralism in religious beliefs.

Indeed, like millions of their coreligionists, my own grandparents came to the United States from Central and Eastern Europe early this century, in part to escape the discrimination they suffered on account of their Jewish faith and heritage. They and those of us who descended from them ultimately found an acceptance in this country that is virtually unparalleled in history. As a result of this country's continued willingness to welcome people of different faiths like my grandparents, both we and American society have been enriched.

Unfortunately, the traditional American values of religious tolerance and acceptance thus far too often have been denied to a more recent group of arrivals and their descendants. Despite the tremendous contributions Muslim Americans are making to American society, and despite the fact that Islam shares a common origin—and common values—with America's two other predominant monotheistic religions, Americans of Islamic faith have been subjected to harassment and discrimination solely on account of their religion and heritage. This must end. It is time for us to reaffirm our commitment to religious pluralism and tolerance. It is time for us to loudly proclaim that a diversity of religious beliefs and traditions enriches rather than diminishes our society because religion—including Islam—is a great source of values and good deeds in our democracy. It is time for us to extend to our Muslim citizens in practice the

promise of our nation's ideals: tolerance of and gratitude for their religious beliefs. I hope the resolution we are submitting today puts us one step closer to achieving that ideal.

SENATE RESOLUTION 224—EXPRESSING THE SENSE OF THE SENATE REGARDING AN INTERNATIONAL PROJECT TO EVALUATE AND FACILITATE THE EXCHANGE OF ADVANCED TECHNOLOGIES

Mr. STEVENS (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. HOLLINGS, Mr. INOUYE, and Mr. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 224

Whereas currently in the post Cold-War world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective and advanced innovative nuclear waste technologies;

Whereas there is increasing public interest in monitoring and remediation of nuclear wastes; and

Whereas it is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear waste technologies: *Now, therefore, be it Resolved*, That it is the sense of the Senate that—the President should instruct the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, to consider the Advanced Technology Research Project (known as "ATRP") and report to the Committee on Energy and Natural Resources of the Senate on:

(1) whether the United States should encourage the establishment of an international project to facilitate the evaluation and international exchange of data (including cost data) relating to advanced nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments;

(2) whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international non-governmental, nonprofit organization, with operations in the United States, Russia, Japan, and other countries that have an interest in developing such technologies; and

(3) any legislation that the Secretary believes would be required to enable such a project to be undertaken.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

ROTH AMENDMENT NO. 2339

Mr. ROTH proposed an amendment to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

On page 401, strike line 3, and insert: "beginning after December 31, 1998".

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAS.

(a) IN GENERAL.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

"(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

"(I) any amount included in gross income under subsection (d)(3) shall not be taken into account, and

"(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

KERREY AMENDMENT NO. 2340

Mr. KERREY proposed an amendment to the bill, H.R. 2676, supra; as follows:

Beginning on page 277, line 4, strike all through page 279, line 25.

On page 280, line 1, strike "**3105**" and insert "**3104**".

On page 282, line 11, strike "**3106**" and insert "**3105**".

On page 286, line 1, strike "**3107**" and insert "**3106**".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "_____, 1998".

On page 399, line 24, strike "the date of the enactment of this Act" and insert "December 31, 2001".

On page 400, lines 4 and 5, strike "the date of the enactment of this Act" and insert "December 31, 2001".

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability."

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking "or acquired".

(4) Section 357(c)(1) is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) is amended by striking "or acquisition (in the amount of the liability)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

SEC. 5010. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2001, and before January 1, 2008."

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2001, and before October 1, 2008."

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 2001.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on January 1, 2002.

SEC. 5011. MODIFICATION OF DEPRECIATION METHOD FOR TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 168(g)(3) (relating to tax-exempt use property subject to lease) is amended to read as follows:

"(A) TAX-EXEMPT USE PROPERTY.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (2) shall be equal to 150 percent of the class life of the property determined without regard to this subparagraph."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property—

(1) placed in service after December 31, 1998, and

(2) placed in service on or before such date which—

(A) becomes tax-exempt use property after such date, or

(B) becomes subject to a lease after such date which was not in effect on such date.

In the case of property to which paragraph (2) applies, the amendment shall only apply with respect to periods on and after the date the property becomes tax-exempt use property or subject to such a lease.

SEC. 5012. EXTENSION OF REPORTING FOR CERTAIN VETERANS PAYMENTS.

The last sentence of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 2003" and inserting "September 30, 2008".

On page 260, line 14, strike "shall develop" and insert "shall, not later than January 1, 2000, develop".

On page 305, lines 3 and 4, strike "the date of the enactment of this Act" and insert "June 30, 2000".

On page 305, lines 10 and 11, strike "the date of the enactment of this Act" and insert "June 30, 2000".

On page 308, line 13, strike "the date of the enactment of this Act" and insert "June 30, 1999".

On page 309, lines 7 and 8, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 310, strike line 19, and insert "December 31, 1999".

On page 312, lines 15 and 16, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 314, lines 3 and 4, strike "the 180th day after the date of the enactment of this Act" and insert "December 31, 2000".

On page 315, line 11, strike "June 30, 2000" and insert "December 31, 2000".

On page 324, strike lines 9 through 12, and insert:

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after December 31, 1999.

On page 343, after line 24, insert:

(c) EFFECTIVE DATE.—This section shall apply to collection actions initiated after December 31, 1999.

On page 345, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 348, line 6, strike "December 31, 1998" and insert "December 31, 1999".

On page 351, lines 13 and 14, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 6 and 7, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, lines 9 and 10, strike "the date of the enactment of this Act" and insert "December 31, 1999".

On page 357, strike lines 16 and 17, and insert:

(B) December 31, 1999.

On page 362, lines 12 and 13, strike "the 60th day after the date of the enactment of this Act" and insert "December 31, 1999".

On page 370, lines 17 and 18, strike "the date of the enactment of this Act" and insert "January 1, 1999".

On page 371, line 11, insert: "This subsection shall apply only with respect to taxes arising after June 30, 2000, and any liability for tax arising on or before such date but remaining unpaid as of such date." after the end period.

On page 374, lines 4 and 5, strike "180 days after the date of the enactment of this Act" and insert "July 1, 2000".

On page 379, line 15, insert ", on and after July 1, 1999," after "shall".

On page 382, line 2, strike "60 days after the date of the enactment of this Act" and insert "on January 1, 2000".

On page 383, line 14, insert ", except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999" after "Act".

On page 385, lines 7 and 8, strike "the date of the enactment of this Act" and insert "January 1, 2000".

BOND AMENDMENT NO. 2341

Mr. BOND proposed an amendment to the bill, H.R. 2676, supra; as follows:

Beginning on page 174, strike line 10 and all that follows through page 192, line 25, and insert the following:

SEC. 1101. INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.

"(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Board of Governors (in this title referred to as the 'Board').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Board shall be composed of 5 members, of whom—

"(A) 4 shall be individuals who are appointed by the President, by and with the advice and consent of the Senate, and

"(B) 1 shall be the Commissioner of Internal Revenue.

Not more than 2 members of the Board appointed under subparagraph (A) may be affiliated with the same political party.

"(2) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in 1 or more of the following areas:

"(A) The needs and concerns of taxpayers.

"(B) Organization development.

"(C) Customer service.

"(D) Operation of small businesses.

"(E) Management of large businesses.

"(F) Information technology.

"(G) Compliance.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in these enumerated areas.

"(3) TERMS.—Each member who is described in paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed—

"(A) 1 member who is affiliated with the same political party as the President shall be appointed for a term of 1 year,

"(B) 1 member who is not affiliated with the same political party as the President shall be appointed for a term of 2 years,

"(C) 1 member who is affiliated with the same political party as the President shall be appointed for a term of 3 years, and

"(D) 1 member who is not affiliated with the same political party as the President shall be appointed for a term of 4 years.

A member of the Board may serve on the Board after the expiration of the member's term until a successor has taken office as a member of the Board.

"(4) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

"(5) VACANCY.—Any vacancy on the Board—

"(A) shall not affect the powers of the Board, and

"(B) shall be filled in the same manner as the original appointment.

Any member appointed to fill a vacancy occurring before the expiration of the term for

which the member's predecessor was appointed shall be appointed for the remainder of that term.

"(6) REMOVAL.—

"(A) IN GENERAL.—A member of the Board may be removed at the will of the President.

"(B) COMMISSIONER OF INTERNAL REVENUE.—An individual described in paragraph (1)(B) shall be removed upon termination of employment.

"(c) GENERAL RESPONSIBILITIES.—

"(1) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

"(2) CONSULTATION ON TAX POLICY.—The Board shall be responsible for consulting with the Secretary of the Treasury with respect to the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions.

"(d) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

"(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

"(A) mission and objectives, and standards of performance relative to either, and

"(B) annual and long-range strategic plans.

"(2) OPERATIONAL PLANS.—To review and approve the operational functions of the Internal Revenue Service, including—

"(A) plans for modernization of the tax system,

"(B) plans for outsourcing or managed competition, and

"(C) plans for training and education.

"(3) MANAGEMENT.—To—

"(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

"(B) recommend to the Secretary of the Treasury 3 candidates for appointment as the National Taxpayer Advocate from individuals who have—

"(i) a background in customer service as well as tax law, and

"(ii) experience in representing individual taxpayers,

"(C) recommend to the Secretary of the Treasury the removal of the National Taxpayer Advocate,

"(D) oversee the operation of the Office of the Taxpayer Advocate and the Internal Revenue Service Office of Appeals,

"(E) review and approve the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibilities over significant functions of the Internal Revenue Service,

"(F) review and approve the Commissioner's plans for reorganization of the Internal Revenue Service, and

"(G) review and approve procedures of the Internal Revenue Service relating to financial audits required by law.

"(4) BUDGET.—To—

"(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

"(B) submit such budget request to the Secretary of the Treasury, and

"(C) ensure that the budget request supports the annual and long-range strategic plans of the Internal Revenue Service.

"(5) TAXPAYER PROTECTION.—To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit, without revision, the budget request referred to in paragraph (4) for any fiscal year to the President who shall submit, without revision, such request to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

"(e) BOARD PERSONNEL MATTERS.—

"(1) COMPENSATION OF MEMBERS.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at an annual rate equal to the rate for Executive Schedule IV under title 5 of the United States Code. The Commissioner shall receive no additional compensation for service on the Board.

"(2) STAFF.—The Chairperson of the Board shall have the authority to hire such personnel as may be necessary to enable the Board to perform its duties.

"(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(f) ADMINISTRATIVE MATTERS.—

"(1) CHAIR.—

"(A) TERM.—The Commissioner of Internal Revenue shall serve as the chairperson of the Board.

"(B) POWERS.—Except as otherwise provided by a majority vote of the Board, the powers of the Chairperson shall include—

"(i) establishing committees,

"(ii) setting meeting places and times,

"(iii) establishing meeting agendas, and

"(iv) developing rules for the conduct of business.

"(2) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

"(3) QUORUM; VOTING REQUIREMENTS; DELEGATION OF AUTHORITIES.—3 members of the Board shall constitute a quorum. All decisions of the Board with respect to the exercise of its duties and powers under this section shall be made by a majority vote of the members present and voting. A member of the Board may not delegate to any person the member's vote or any decisionmaking authority or duty vested in the Board by the provisions of this section.

"(4) REPORTS.—The Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives, and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.".

(b) CONFORMING AMENDMENTS.—

(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

"Members, Internal Revenue Service Board of Governors."

(2) Section 7701(a) (relating to definitions) is amended by inserting after paragraph (46) the following new paragraph:

"(47) BOARD.—The term 'Board' means the Board of Governors of the Internal Revenue Service."

(3) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Internal Revenue Service Board of Governors."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.—The President shall submit nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF BOARD OF GOVERNORS.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Board of Governors.

On page 194, line 14, strike "Oversight".

On page 195, line 2, strike "Oversight".

On page 197, lines 11 and 12, strike "Oversight".

On page 202, line 2, strike "Oversight".

On page 212, line 13, strike "Oversight Board" and insert "Board of Governors".

On page 217, line 10, strike "Oversight Board" and insert "Board of Governors".

On page 217, lines 22 and 23, strike "Oversight Board" and insert "Board of Governors".

On page 220, line 12, strike "Oversight Board" and insert "Board of Governors".

On page 220, line 17, strike "Oversight Board" and insert "Board of Governors".

On page 235, line 2, strike "Oversight Board" and insert "Board of Governors".

On page 258, line 8, strike "Oversight Board" and insert "Board of Governors".

REID AMENDMENT NO. 2342

Mr. REID proposed an amendment to the bill, H.R. 2676, supra; as follows:

At the end of subtitle H of title III, add the following:

SEC. ___. ELIMINATION OF PAYMENTS FOR DETECTION OF UNDERPAYMENTS AND FRAUD.

(a) IN GENERAL.—Subchapter B of chapter 78 is amended by striking section 7623.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

LEAHY (AND ASHCROFT) AMENDMENT NO. 2343

Mr. KERREY (for Mr. LEAHY, for himself and Mr. ASHCROFT) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 262, after line 14, add the following new paragraph:

"In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all Tax Forms, Instructions, and Publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form."

DORGAN (AND REID) AMENDMENT NO. 2344

Mr. DORGAN (for himself and Mr. REID) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 394, between lines 15 and 16, insert:

SEC. 3803. STUDY OF TRANSFER PRICING ENFORCEMENT.

(1) IN GENERAL.—The Internal Revenue Service Oversight Board shall study whether the Internal Revenue Service has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods.

(2) ASSISTANCE.—The Internal Revenue Service shall assist the Board in its study by analyzing and reporting to the Board on its enforcement of transfer pricing abuses, including a review of the effectiveness of the current enforcement tools used by the Internal Revenue Service to ensure compliance under section 482 of the Internal Revenue Code of 1986 and to determine the scope of nonpayment of United States taxes by reason of such abuses.

(3) REPORT.—The Board shall report to Congress, not later than 12 months after the date of enactment of this Act, on the results of the study conducted under this subsection, including recommendations for improving the Internal Revenue Service's enforcement tools to ensure that multinational companies doing business in the United States pay their fair share of United States taxes.

DEWINE AMENDMENTS NOS. 2345–2346

(Ordered to lie on the table.)

Mr. DEWINE submitted two amendments intended to be proposed by him to the bill, H.R. 2676, supra; as follows:

AMENDMENT NO. 2345

On page 291, between lines 6 and 7, insert:

SEC. 3108. PROCEEDINGS TO REDUCE COMPLIANCE BURDENS RELATING TO NET OPERATING LOSSES.

(a) ADMINISTRATIVE PROCEEDINGS.—Section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended—

(1) by striking "Every" and inserting "(a) IN GENERAL.—Every", and

(2) by adding at the end the following new subsection:

"(b) SPECIAL RULE FOR RECORDS RELATING TO NET OPERATING LOSSES.—

"(1) IN GENERAL.—If, within 5 years of filing, the Secretary has not examined any return of tax for a taxable year in which a net operating loss (as defined in section 172(c)) arises, the taxpayer may request the Secretary to—

"(A) enter into a formal record retention agreement with respect to records relating to such taxable year, or

"(B) if an agreement under subparagraph (A) cannot be mutually agreed upon, conduct an examination of such return.

"(2) TIME FOR ACTION.—

"(A) IN GENERAL.—The Secretary shall have 90 days from receipt of a request to enter into the agreement under paragraph (1)(A). If an agreement cannot be reached within such 90-day period, the Secretary shall immediately schedule the date for the examination under paragraph (1)(B).

"(B) EXAMINATION.—Any examination under paragraph (1)(B) shall be completed within 1 year of the close of the 90-day period under subparagraph (A) unless the taxpayer and the Secretary mutually agree to an extension of the 1-year period.

"(C) EFFECT OF FAILURE.—If the Secretary fails to meet any deadline under this paragraph, the net operating loss for the taxable year at issue shall be the amount included on the return of tax.

"(3) PAYMENT.—The Secretary may assess a fee of up to $10,000 on any taxpayer filing a request under this subsection in order to defray the Secretary's expenses under this subsection."

(b) DECLARATORY JUDGMENT PROCEEDING.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by adding at the end the following new section:

"SEC. 7480. DECLARATORY JUDGMENT INVOLVING NET OPERATING LOSS DEDUCTION.

"(a) CREATION OF REMEDY.—In a case of actual controversy involving a determination by the Secretary of the correctness of a net operating loss under section 172(c) under an examination (or administrative appeal thereof) pursuant to section 6001(b), upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to the correctness of such deduction. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by a taxpayer who filed a request under section 6001(b).

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines the petitioner has exhausted all administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies as of the close of the period described in section 6601(b)(2)(B).

"(3) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section unless it is filed before the 91st day after the last day of the period under section 6601(b)(2)(B)."

(2) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end the following new item:

"Sec. 7480. Declaratory judgment involving net operating loss deduction."

AMENDMENT NO. 2346

On page 312, strike lines 1 through 6 and insert:

(b) AMENDMENT RELATED TO SECTION 1011 OF 1997 ACT.—Subsection (d) of Section 1059 of the 1986 Code is amended by adding at the end the following paragraph:

"(7) EXCEPTION FOR EXCESS LOSS ACCOUNTS.—Except as provided in regulations prescribed by the Secretary after March 26, 1998, subsection (a) shall not apply to any extraordinary dividend to the extent that the regulations prescribed under section 1502 require the creation or increase of an excess loss account.

GRAHAM AMENDMENT NO. 2347

Mr. GRAHAM proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 176, between lines 4 and 5, insert the following:

"(vii) The needs and concerns of small businesses."

ASHCROFT (AND LEAHY) AMENDMENT NO. 2348

Mr. ASHCROFT (for himself and Mr. LEAHY) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 261, strike lines 4 through 7, and insert "and subscribed".

COVERDELL AMENDMENTS NOS. 2349–2353

(Ordered to lie on the table.)

Mr. COVERDELL submitted four amendments intended to be proposed by him to the bill, H.R. 2676, supra; as follows:

AMENDMENT NO. 2349

At the appropriate place insert the following:

SEC. . FAIRNESS WHEN COLLECTING A TAX DUE TO MATHEMATICAL AND CLERICAL ERRORS.

(a) IN GENERAL.—Section 6404(d) of the Internal Revenue Code of 1986 (relating to abatements) is amended to read as follows:

"(d) ABATEMENT OF INTEREST, PENALTY, ADDITIONAL, AMOUNT, AND ADDITION TO TAX ATTRIBUTABLE TO CERTAIN MATHEMATICAL, OR CLERICAL ERRORS.—In the case of an assessment of additional tax attributable to a mathematical or clerical error (as defined in section 6213(g)(2)), the Secretary shall abate any interest, penalty, additional amount, and addition to tax with respect to such assessment if, within 60 days after notice of such assessment is sent under section 6213(b)(1) by certified mail or registered mail, the taxpayer pays, or files a request for an abatement of, such assessment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to notices filed after the date of the enactment of this Act.

AMENDMENT NO. 2350

After "misconduct." on page 252, line 18, insert:

"Such a terminated employee shall be barred from employment in the Federal service."

AMENDMENT NO. 2351

On page 376, strike lines 3 through 15, and insert:

"(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

AMENDMENT NO. 2352

Beginning on page 377, line 20, strike all through page 378, line 14, and insert:

"(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary—

"(A) shall consider—

"(i) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

"(ii) the existence of other low income taxpayer clinics serving the same population,

"(iii) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if

any, in providing service to low income taxpayers, and

"(iv) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic, and

"(B) shall give preference to any clinic in existence on the date of the enactment of this section.

COVERDELL (AND OTHERS) AMENDMENT NO. 2353

(Ordered to lie on the table.)

Mr. COVERDELL (for himself, Mr. COCHRAN, Mr. FRIST, Mr. HAGEL, and Mr. INHOFE) submitted an amendment intended to be proposed by them to the bill, H.R. 2676, supra; as follows:

On page 342, after line 24, add:

SEC. 3418. PROHIBITION OF RANDOM AUDITS.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses), as amended by section 3417, is amended by adding at the end the following new subsection:

"(f) LIMITATIONS ON AUTHORITY TO EXAMINE.—

"(1) IDENTIFICATION OF PURPOSE AND BASIS FOR EXAMINATION REQUIRED.—In taking any action under subsection (a), the Secretary shall identify in plain language the purpose and the basis for initiating an examination in any notice of such an examination to any person described in subsection (a).

"(2) RANDOM AUDITS PROHIBITED.—The Secretary shall not base, in whole or in part, the initiation of an examination of a return under subsection (a) on the use of a statistically random return selection technique from a population or subpopulation."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to examinations initiated after April 29, 1998.

STEVENS AMENDMENT NO. 2354

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by them to the bill, H.R. 2676, supra; as follows:

On page 344, strike lines 7 through 9 and insert in lieu thereof the following:

(b) BOOKS, ETC.—Section 6334(a)(3) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,250 in value" and inserting "$5,000 in value, and any permits issued by a State and required under State law for the harvest of fish or wildlife in the trade, business, or profession of the taxpayer".

SHELBY (AND SESSIONS) AMENDMENT NO. 2355

Mr. SHELBY (for himself and Mr. SESSIONS) proposed an amendment to the bill, H.R. 2676, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. ___. CONGRESSIONAL REVIEW OF INTERNAL REVENUE SERVICE RULES THAT INCREASE REVENUE.

(a) SHORT TITLE.—This section may be cited as the "Stealth Tax Prevention Act".

(b) IN GENERAL.—Section 804(2) of title 5, United States Code, is amended to read as follows:

"(2) The term 'major rule'—

"(A) means any rule that—

"(i) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(I) an annual effect on the economy of $100,000,000 or more;

"(II) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"(III) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or

"(ii)(I) is promulgated by the Internal Revenue Service; and

"(II) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds that the implementation and enforcement of the rule has resulted in or is likely to result in any net increase in Federal revenues over current practices in tax collection or revenues anticipated from the rule on the date of the enactment of the statute under which the rule is promulgated; and

"(B) does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.".

THOMPSON (AND OTHERS) AMENDMENT NO. 2356

Mr. THOMPSON (for himself, Mr. SESSIONS, and Mr. FAIRCLOTH) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 180, beginning with line 7, strike all through page 181, line 17.

KOHL (AND FEINGOLD) AMENDMENT NO. 2357

Mr. KERREY (for Mr. KOHL, for himself, and Mr. FEINGOLD) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 229, insert between lines 15 and 16 the following new section:

SEC. 1106. REVIEW OF MILWAUKEE AND WAUKESHA INTERNAL REVENUE SERVICE OFFICES.

(a) IN GENERAL.—

(1) REVIEW.—The Commissioner of Internal Revenue shall appoint an independent expert in employment and personnel matters to conduct a review of the investigation conducted by the task force, established by the Internal Revenue Service and initiated in January 1998, of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin.

(2) CONTENT.—The review conducted under paragraph (1) shall include—

(A) a determination of the accuracy and validity of such investigation; and

(B) if determined necessary by the expert, a further investigation of such offices relating to—

(i) the equal employment opportunity process; and

(ii) any alleged discriminatory employment-related actions, including any alleged violations of Federal law.

(b) REPORT.—Not later than July 1, 1999, the independent expert shall report on the review conducted under subsection (a) (and any recommendations for action) to Congress and the Commissioner of Internal Revenue.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROTH. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet on Wednesday may 6, 1998, and Thursday May 7, 1998, at 10 a.m. in closed session, to mark up the Department of Defense Authorization Act for Fiscal Year 1999.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet to conduct a hearing on Wednesday, May 6, 1998 at 10:00 a.m. on Tribal Sovereign Immunity, focusing on torts. The hearing will be held in room 106 of the Dirksen Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROTH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 6, 1998 at 11:30 am to hold closed mark-up on the FY 99 Intelligence Authorization.

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

SPECIAL COMMITTEE ON AGING

Mr. ROTH. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on May 6, 1998 at 2:00 p.m. for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. ROTH. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 6, 1998, at 9:30 a.m. on oversight of the Common Carrier Bureau.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs be authorized to meet during the session of the Senate on Wednesday, May 6, 1998 at 2:00 p.m. to hold a hearing.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 6, for purposes of conducting a subcommittee

hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 94, a bill to provide for the orderly disposal of Federal lands in Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes; and H.R. 449, a bill to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

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

ADDITIONAL STATEMENTS

TRIBUTE TO BRUCE BOHNSACK

• Mr. CONRAD. Mr. President, I rise today to give a brief tribute to Mr. Bruce Bohnsack from my home state of North Dakota. Mr. Bohnsack operates a grain and soybean farm which has been in his family for more than 100 years. As a producer, Bruce has a keen interest in farm policy issues and has been active in the affairs of a farmer owned credit cooperative—the Farm Credit System.

Bruce's active involvement in Farm Credit has been on various levels. He is a member of the Federal Land Credit Association of Fargo and has served as director of that association for 18 years. Bohnsack joined the board of the St. Paul Farm Credit Bank in 1987—at a time of crisis for the bank and the Farm Credit System as a whole.

The Farm Credit System of the mid-1980s was fighting a battle for survival. One of the things that saved the System was the leadership of Farm Credit board members like Bruce Bohnsack. Bruce and his colleagues in St. Paul made a number of sound business decisions of critical importance to the institutions and the farmers they serve. One such decision was to combine the St. Paul and St. Louis Farm Credit Banks to create AgriBank, FCB. This first voluntary merger of Farm Credit banks in the history of the System helped to ensure the efficiency and effectiveness of the wholesale bank while retaining local accountability at the association level.

Bruce and other farmer elected lenders in the System also provided helpful input to the Committee on Agriculture when we drafted the Agricultural Credit Act of 1987. The 1987 Act is one of the great success stories in recent years for which Congress and the Farm Credit System can both be justifiably proud. Since 1987 the Farm Credit System has experienced a remarkable turn around. It is now better capitalized and better positioned to serve farmers than ever before in its history. Congress played a role in this turn around by providing Farm Credit with a loan not a grant. The principal and interest on the loan made possible under the 1987 legislation is being repaid by the System several years ahead of schedule.

Bruce Bohnsack's interest in farm policy issues is also reflected in his service on the St. Paul District Farm Credit Council and national Farm Credit Council boards of directors. As chairman of these two boards, Bruce was as an advocate for Farm Credit in the halls of Congress and in North Dakota. While he no longer serves on these boards, you can bet he will continue to be active in North Dakota Farmers Union, North Dakota State Township Officers Association, his local Lutheran church and other farm and community groups.

On behalf of North Dakota farmers, I would like to thank Bruce Bohnsack for his years of service to the Farm Credit System and American agriculture. We wish him well in the years ahead.•

FIRST LIEUTENANT JOSEPH VAN OOSTERHOUT RETIRES FROM MICHIGAN STATE POLICE

• Mr. ABRAHAM. Mr. President, I rise today to honor First Lieutenant Joseph Van Oosterhout, Post Commander of the Michigan State Police. He is retiring from the State Police after 23 years and 9 months of dedicated service.

First Lieutenant Van Oosterhout joined the Michigan State Police after serving in the United States Navy during the Vietnam War from 1967 to 1971. After serving in the military, he attended Western Michigan University where he worked towards the Bachelor's Degree he later earned while with the State Police. He was enlisted in the Michigan State Police in 1974, first stationed at the Benton Harbor Post and later to the Detroit Post and White Pigeon Post. In 1982, Van Oosterhout was promoted to Sergeant in the Traffic Services Division in Lansing. In 1987, he was assigned as Assistant Post Commander at the Ypsilanti Post. In 1992, he was promoted to Post Commander at the Iron Mountain Post. Also in 1992, he was transferred to the Negaunee Post as Post Commander where he has served ever since.

Throughout his career, First Lieutenant Van Oosterhout has received a great deal of recognition for his excellent service. In 1988, he was recognized as being the police officer in Michigan who had contributed most to traffic safety. He received one Departmental Award for breaking a crime ring and another for making a drug bust that had ties to several states.

Van Oosterhout, husband to Becky and father to Leah, Sarah, Joe and Andrew, will be remembered for his excellent service and dedication to the Department of State Police, friendly demeanor and concern for those he worked with. I extend my warmest congratulations to him on his retirement.•

MICHIGAN SPORTS HALL OF FAME INDUCTEES

• Mr. ABRAHAM. Mr. President, I rise today to honor five men who have been newly elected to the Michigan Sports Hall of Fame. Earvin "Magic" Johnson, one of basketball's all time greatest players who began his career with Michigan State University and gained further fame as a Los Angeles Laker; Leonard "Red" Kelly, one of the Red Wings greatest players who was recently named one of the 50 greatest players in NHL history; Bob Reynolds, the legendary sports broadcaster at the radio station WJR in Detroit; Isiah Thomas, possibly the greatest Detroit Piston of all time; and George Webster, All American linebacker from Michigan State University.

In addition to the inductees, Peter Karmanos, Jr., Chairman of the Compuware Corporation and owner of the Carolina Hurricanes of the National Hockey League will receive the Gerald R. Ford Sports Person of the Year Award. All of these men will be honored at the 44th Annual Induction Dinner of the Michigan Sports Hall of Fame on Wednesday evening, May 20, 1998 at Detroit's Cobo Center.

I want to extend my sincerest congratulations to all of these men. I am confident that the event will be a great success.•

COVERDELL A+ SAVINGS ACCOUNTS BILL—EXPLANATION OF VOTES

• Mr. ABRAHAM. Mr. President, the Senate recently voted on an important piece of legislation, the Coverdell A+ Savings Account bill. I believe it is important to clarify my position on several amendments offered to this bill.

In general, I believe the best way to ensure effective education policy is to direct as many dollars and resources as possible to the local level. By giving localities the resources and flexibility they need, I am confident that communities and parents will best direct those funds to meet the unique and diverse needs of their children. For this reason, I support the Coverdell A+ Savings Account bill. This legislation, puts resources at the most local level: with parents. Parents will now have the ability to save for and meet the educational needs of their children. Whether it means hiring a tutor for their child, buying a home computer, finding an alternative educational setting, or saving for college, parents will be in the position to take positive steps towards providing a positive educational future for their children.

For similar reasons, I supported an amendment offered by Senator GORTON to give states the option of (1) continuing to receive federal education programs under the current funding system; (2) receiving federal education

programs as a block grant going directly to the state without federal regulations; or (3) receiving federal education programs in a block grant going directly to the local education agency without federal regulations. By allowing local education agencies to receive federal resources without federal red tape and bureaucracy, we will be putting more power and flexibility in the hands of the people most closely involved with educating children. As a safe-guard to ensure that an appropriate level of federal funding continues, Senator GORTON's amendment insists that if future funding dips below the current level of funding, the programs would be forced back into the current categorical funding.

I also supported an amendment offered by Senators MACK and D'AMATO which would allow states to use existing block grant funds under the Elementary and Secondary Education Act to fund teacher testing and merit pay programs in the state. I believe this amendment would allow states to develop important programs to help ensure quality teachers in the classroom and to pay those teachers accordingly.

Finally, I supported an amendment that was offered by Senator KAY BAILEY HUTCHISON which clarified the federal position on same-sex schools. This amendment would allow same-sex classrooms and schools to be eligible to receive federal funding as long as comparable education opportunities are offered for students of both sexes. I believe the federal government must allow states and communities to find creative solutions to meeting the educational needs of their children.

Again, I support the philosophy behind the Coverdell bill and the Gorton amendment which places control, resources, and decision making with parents and local communities. Unfortunately, most of the amendments offered by Democrats, while noble ideas, fund their programs by eliminating the education savings accounts and by focusing the programs and power at the federal level. While there were many interesting ideas debated, such as the amendment offered by Senator LEVIN which would increase the lifetime learning education credit for teachers or the amendment offered by Senator LANDRIEU to provide incentive grants for Blue Ribbon Schools, each proposal was paid for by defunding the A+ Savings Accounts. For that reason, I could not support these weakening amendments.

Senator GLENN offered an amendment which would eliminate the ability of parents to use their tax-free savings to pay for private school tuition or homeschooling expenses. The provision included in the A+ bill is identical to the provision supported by President Clinton and the Democrats in the Balanced Budget Act which allows parents to save $500 a year for college expenses. The Balanced Budget Act, which was signed into law by the President, does not differentiate between private and public colleges. It is inconsistent to subsidize a more limited number of college students and not offer the same benefit in K–12 education.

Senator MOSELY-BRAUN offered an amendment to eliminate the Coverdell A+ Savings accounts and to use the money instead to create a federal school construction program. While I recognize the need for adequate school construction, I believe the Coverdell bill more adequately addresses the needs for school construction through a provision included in the legislation offered by Senator GRAHAM. This provision fosters public private partnerships for school construction and maintains the function of school construction at the local level. The bill provides for $3 billion in tax-exempt bond funding for school construction.

I voted against an amendment offered by Senator KENNEDY which would forgive a maximum of $8,000 in student loans for teachers entering "high need areas or subjects" and would pay for this provision by eliminating the A+ Savings Accounts. I opposed this amendment because the Higher Education Reauthorization Act approved by the Senate Labor Committee contains similar incentives of student loan forgiveness for teachers entering inner-city or rural teaching environments.

I opposed an amendment offered by Senator BOXER which would create a new $250 million federal after-school program. While I support after-school mentoring and tutoring programs for children, I believe these programs should be operated at the local level. In addition, the federal government already funds 4 after-school care programs and 19 existing federal programs that provide tutoring and mentoring for students on a one-on-one basis.

I am encouraged by the Senate's action on the Coverdell A+ Savings bill and the amendment offered by Senator GORTON. I look forward to additional debate on education issues and new and innovative proposals to place greater control and resources at the local level.●

REGARDING INTERNATIONAL PROJECT EVALUATING AND FACILITATING INTERNATIONAL EXCHANGE OF ADVANCED TECHNOLOGIES

Mr. ROTH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 224, submitted earlier by Senator STEVENS and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 224) expressing the sense of the Senate concerning an international project to evaluate and facilitate the international exchange of advanced technology.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Madam President, last spring, the Duma Chairman of the Committee on the Problems of the Russian North, Vladimir Goman, met with Senator COCHRAN and myself to ask us for our participation in a new project which would help facilitate Russia's efforts in the remediation of nuclear wastes.

Since that meeting, the Russian Duma has passed a Resolution pledging funding and infrastructure for the Advanced Technology Research Project (ATRP). In Europe, industry and key decision makers of the European Parliament, the German Bundestag, the Union of European Labor Parties, and several national nuclear waste management and research and development institutions, including the Swiss NAGRA, have all pledged their support for the ATRP.

This ATRP, originally proposed by the Russian Duma, with participation from academia, private industry and governmental and public organizations, is a privately funded, neutral organization. It will facilitate information exchange on nuclear waste management technologies, and the development of a worldwide nuclear waste management technology marketplace. It is the goal of this project to advance self sufficiency in nuclear waste management in Russia and to globally provide advanced and affordable solutions to nuclear waste.

ATRP will be entirely privately funded through private industry, public interest, and scientific organizations. This Private-Public Partnership will be implemented through ATRP's global nuclear waste technology clearinghouse, database, conferences, workshops, and trade shows worldwide. The objective is advanced, safer, and efficient nuclear waste management at the lowest possible cost.

The management of nuclear waste is one of the world's most pressing concerns and perhaps Russia's greatest ecological threat. ATRP will help Russia help itself by developing an international market for technology exchange. It will also benefit United States and all other nuclear nations by making nuclear waste management technology more readily available in the international market place.

I hope that my colleagues will join me in supporting this Resolution which will help us all work toward an international solution to this very pressing issue of nuclear wage management.

Mr. ROTH. Madam President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that

any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 224) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 224

Whereas currently in the post Cold-War world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective and advanced innovative nuclear waste technologies;

Whereas there is increasing public interest in monitoring and remediation of nuclear wastes; and

Whereas it is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear waste technologies: Now, therefore, be it

Resolved, That it is the sense of the Senate that—the President should instruct the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, to consider the Advanced Technology Research Project (known as "ATRP") and report to the Committee on Energy and Natural Resources of the Senate on:

(1) whether the United States should encourage the establishment of an international project to facilitate the evaluation and international exchange of data (including cost data) relating to advanced nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments;

(2) whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international non-governmental, nonprofit organization, with operations in the United States, Russia, Japan, and other countries that have an interest in developing such technologies; and

(3) any legislation that the Secretary believes would be required to enable such a project to be undertaken.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senators as members of the Senate Delegation to the Canada-U.S. Interparliamentary Group during the Second Session of the 105th Congress, to be held in Nantucket, Massachusetts, May 14–18, 1998: The Senator from Iowa (Mr. GRASSLEY); the Senator from Minnesota (Mr. GRAMS).

ORDERS FOR THURSDAY, MAY 7, 1998

Mr. ROTH. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, May 7, 1998. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then resume consideration of the Thompson-Sessions amendment No. 2356 to H.R. 2676, the IRS reform bill.

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

PROGRAM

Mr. ROTH. Madam President, for the information of all Senators, tomorrow morning at 9:30 a.m., the Senate will resume consideration of the Thompson-Sessions amendment to H.R. 2676, the IRS reform bill. Under the previous order, the time between 9:30 and 10 will be equally divided for debate on the Thompson-Sessions amendment. Following the conclusion or yielding back of the time, the Senate will proceed to vote on or in relation to the amendment.

Senators are reminded that a unanimous consent agreement was reached limiting amendments to the IRS bill. It is hoped that following the 10 a.m. vote, Senators will come to the floor to offer their amendments under short time agreements. The cooperation of all Members will be necessary in order for the Senate to complete action on this very important piece of legislation. Therefore, rollcall votes will occur throughout Thursday's session with respect to the IRS reform bill or any other legislative or executive items cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROTH. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:21 p.m., adjourned until Thursday, May 7, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 6, 1998:

CENTRAL INTELLIGENCE AGENCY

L. BRITT SNIDER, OF VIRGINIA, TO BE INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, VICE FRDERICK PORTER HITZ, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

JOHN P. ABIZAID, [redacted]
JOSEPH W. ARBUCKLE, [redacted]
BARRY D. BATES, [redacted]
WILLIAM G. BOYKIN, [redacted]
CHARLES C. CAMPBELL, [redacted]
JAMES L. CAMPBELL, [redacted]
GEORGE W. CASEY, JR., [redacted]
DEAN W. CASH, [redacted]
DENNIS D. CAVIN, [redacted]
JOSEPH M. COSUMANO, JR., [redacted]
PETER M. CUVIELLO, [redacted]
ROBERT F. DEES, [redacted]
JOHN C. DOESBURG, [redacted]
JAMES E. DONALD, [redacted]
BENJAMIN S. GRIFFIN, [redacted]
DENNIS K. JACKSON, [redacted]
JAMES T. JACKSON, [redacted]
WILLIAM J. LENNOX, JR., [redacted]
ALBERT J. MADORA, [redacted]
DAVID D. MCKIERNAN, [redacted]
GEOFFREY D. MILLER, [redacted]
WILLIE B. NANCE, JR., [redacted]
ROBERT W. NOONAN, JR., [redacted]
KENNETH L. PRIVRATSKY, [redacted]
HAWTHORNE L. PROCTOR, [redacted]
ROBERT J. ST. ONGE, JR., [redacted]
ROBERT L. VAN ANTWERP, JR., [redacted]
DANIEL R. ZANINI, [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

GEORGE P. NANOS, JR., [redacted]

HOUSE OF REPRESENTATIVES—*Wednesday, May 6, 1998*

The House met at 10 a.m.

The Reverend Dr. George Docherty, Pastor, Retired, Alexandria, Pennsylvania, offered the following prayer:

Let us pray. God of the ages, before even the mighty nations of the world have had their hour and now are part of history, we begin this new day invoking Thy blessings upon all our deliberations. Help us to see beyond the thrust and cut of debate and the issues that divide us, to behold again the all embracing unity of our people. Help us to regard the sacred phrase "one Nation, under God, with liberty and justice for all," to regard this sacred phrase as more than a noble sentiment from a historic declaration.

Grant to these men and women gathered here today strength in their demanding duties, clarity of purpose. Help them to see the ultimate vision of justice and that love that transcends all differences. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1385. An act to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1385) "An Act to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, and Mr. REED, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 one-minute speeches on each side.

APPRECIATION FOR DR. GEORGE DOCHERTY

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

Mr. GINGRICH. Mr. Speaker, I simply want to share with my colleagues what a wonderful thing it is today to have Dr. George Docherty back sharing with us and leading us in prayer. He grew up and attended public school in Scotland; in Glasgow, to be exact. At the age of 20, he heard his calling to become a minister.

In 1949, the Washington religious community was shocked by the death of Dr. Peter Marshall, the Scottish preacher, who was both Chaplain of the U.S. Senate and Pastor of the New York Avenue Presbyterian Church.

Dr. Marshall had identified a minister to preach in his church in his absence: George Docherty. In 1950, the congregation chose as its new pastor George Docherty. He held the congregation together and led the church into an active ministry for the underprivileged which continues to this day. He worked with Reverend Billy Graham on the Washington crusades and arranged for Reverend Graham's first crusade to Scotland.

For all of us this week, we should think about the notion, as we contemplate prayer and a National Day of Prayer, that Dr. Docherty convinced President Eisenhower and the Congress to add the words "under God" to the Pledge of Allegiance. He is an example of why this is a great country, filled with good people who do amazing things.

The fact is that we all owe Dr. George Docherty a thanks for reminding us that the only true America is an America which recognizes that its blessings come from the Creator who endows it with its unique rights.

APPEAL MEANS STONEWALL

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

Mr. DELAY. Mr. Speaker, yesterday, Judge Norma Holloway Johnson threw out President Clinton's claim of executive privilege regarding the latest crime or scandals in the White House.

No wonder. The President has been taking indecent liberties with the concept of executive privilege. He has hidden behind executive privilege in order to keep the American people from knowing the truth.

According to press accounts, the White House may even appeal this decision. There is only one reason to appeal this decision, and that is to keep the American people from learning the truth.

Mr. Speaker, no man is above the law. Judge Johnson's decision affirms that basic American principle. No matter what strategy the White House decides to employ, the American people have the right to know the truth. An appeal by the President on this case would amount to one more effort to stonewall the Starr investigation and keep the truth away from the American people.

CAMPAIGN FINANCE INVESTIGATION

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

Mr. GUTIERREZ. Mr. Speaker, I am shocked by the new discoveries that have been made by the editors of the gentleman from Indiana (Mr. BURTON) in his so-called investigation. Just listen to this: It turns out that when Franklin Delano Roosevelt rallied our country during the Depression, what he really said was, "The only thing we have is fear itself." At John F. Kennedy's stirring inaugural, what he actually said was, "Ask not what you can do for your country."

Most shocking of all, the gentleman from Indiana (Mr. BURTON) has discovered that Republicans as well as Democrats have been misquoted through the years. Even George Bush, if the skillful editors of the gentleman from Indiana (Mr. BURTON) were around in 1988, they may have changed history. In Burtonland, George Bush actually said, "Read my lips: New taxes."

Hard to believe? No harder to believe than the distorted, dishonest, and discredited tapes Mr. BURTON tried to fool the American people with. This deceit is shameful.

I guess the only thing the gentleman's committee's multimillion-dollar spending spree cannot buy is fairness and honesty. Do all Americans a favor and stop this charade.

MISSILE TECHNOLOGY TRANSFER TO CHINA

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

Mr. PITTS. Mr. Speaker, a news account last week detailed a Clinton administration proposal to begin space cooperation with China. Shockingly, the administration's proposal would permit the transfer of missile technology with the potential of enhancing Chinese nuclear weapon strategy, weapons of mass destruction.

Mr. Speaker, according to experts, China has already supplied missile test equipment to Iran and other nations that have a clear vendetta against the United States. Why is the Clinton administration allowing transfer of weapons technology to China? Are they naively believing this information is secure? Who are they kidding?

Constructive engagement with China is one thing, but providing technology for computer guidance systems, for ICBMs is not only outrageous, it is a direct threat to our national security.

This should be investigated. Although we should constructively engage China, our first and foremost concern should be protecting America's interest and prohibiting transfer of weapons technology which could threaten the Nation's security.

CAMPAIGN FINANCE INVESTIGATION

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

Mr. PALLONE. Mr. Speaker, when someone takes on the job to be chairman of the House Committee on Government Reform and Oversight, in this case, the gentleman from Indiana (Mr. BURTON), they have an obligation to be impartial in conducting the investigation.

The gentleman from Indiana (Mr. BURTON) has totally abrogated that responsibility, in particular this last week, in the way that he released the Hubbell tapes. The gentleman from Indiana carefully edited and rearranged the tapes, releasing them with errors and omissions so as to be damaging to the President.

I ask, how can the gentleman's committee's investigation possibly be fair when the chairman acts in this fashion? The public is tired of this investigation. It is expensive. It has cost over $6 million so far. It takes away from the real issues that the House of Representatives should be addressing. But at least if the gentleman from Indiana is going to do the investigation, he should do it fairly. Since he cannot, he should be removed as the chairman in charge of the investigation.

IRS GETS A RAISE

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

Mr. GIBBONS. Mr. Speaker, tucked away deep inside the $128 billion in new Federal taxes in President Clinton's new budget proposal is a $529 million increase in the salaries for the Internal Revenue Service. That is right, Mr. Speaker. The IRS, the same out-of-control rogue Federal agency that has trampled the constitutional rights of millions of American citizens, is getting a pay raise.

We are all familiar with the saying, "if it is not broke, do not fix." However, someone needs to introduce this administration and my liberal colleagues to the concept that if it is broke, do not reward them with a half a billion dollar pay raise out of the pockets of the American taxpayers.

In light of recent reports of taxpayer abuse by IRS agents, the President promised swift action. If a half a billion dollar pay raise is swift action, I would hate to see just what his long-range corrective action would entail.

Thomas Sowell, a noted economist, once said, "It is easy to be wrong, and to persist in being wrong, when the costs of being wrong are paid for by others."

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER. The Chair announces as additional conferees from the Committee on Ways and Means to the conference on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes:

Mr. NUSSLE and

Mr. HULSHOF.

Further conferees will be announced later.

The Clerk will notify the Senate of the change in conferees.

CAMPAIGN FINANCE INVESTIGATION

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

Ms. DELAURO. Mr. Speaker, the gentleman from Indiana (Mr. BURTON), chairman, has seriously threatened the integrity of the House and its ability to conduct a fair investigation. First, the gentleman released tapes which, as the Washington Post states today, mainly deal with "highly personal matters of no conceivable relevance to any public inquiry."

We discover that the gentleman from Indiana (Mr. BURTON), chairman, is so determined to smear the President that he doctored those tapes and he altered the content to suit his own purposes.

We have a responsibility to investigate any wrongdoing, but the gentleman from Indiana (Mr. BURTON) and Speaker GINGRICH have a responsibility to conduct that investigation fairly and impartially.

The gentleman from Indiana (Mr. BURTON) and Speaker GINGRICH have proven themselves incapable of being either fair or impartial. I call on them to remove themselves immediately from this investigation. Stop diverting attention away from the real issues, the issues that the American people want this House to consider: managed care reform, improving our public schools, and enacting real campaign reform. Let us put an end to this partisan investigation and let us get to work.

□ 1015

MANY UNANSWERED QUESTIONS

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

Mr. KINGSTON. Mr. Speaker, I am really disturbed by the allegations against our colleague that he altered tapes. The gentleman from Indiana has not altered any tapes.

But I guess what I am also very, very concerned about is why are the Democrats worried about why Web Hubbell was awarded $100,000 from the Indonesian Government after he left the White House? Was it hush money? Why did Revlon Corporation give him $63,000?

Why, on these unaltered tapes, did he say I have to roll over for the White House one more time? Why did his wife say here comes the White House squeeze again?

Why did 19 members of the Committee on Government Reform and Oversight, 19 Democrat members, refuse to give immunity to four witnesses that the Democrat Department of Justice has already given immunity to? Why are the Democrats not interested in getting to the truth?

Why did Monica Lewinsky visit the Oval Office 37 times? Quite a file clerk, huh, Mr. President?

Why are these things going on? Why does Ms. McDougal not speak, Mr.

Speaker? Why are the Democrats not curious?

Mr. Speaker, I have these questions.

SUPPORT MAINTAINING CURRENT DOMESTIC SOURCING STANDARDS

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

Mr. STRICKLAND. Mr. Speaker, as we envision the American soldier of the future, we imagine that soldier with state-of-the-art equipment, weapons, and training. Would it surprise us to see that soldier wearing a uniform made of Chinese fabric assembled in Taiwan? Would it trouble us to imagine him in the trenches wearing a helmet cast from German steel and eating rations imported from Sweden? Does it shock us to learn that the Department of Defense wants Congress to allow the purchasing of foreign materials and food for American soldiers?

With apologies to my fellow Ohioan, let me say, Mr. Speaker, we should all be beamed up on this one.

I plan to see that American soldiers are not clothed and fed by foreign companies and that the Department of Defense's Buy American laws are not circumvented with slick legislative language. I urge every Member of this body to join me and my colleague from New Jersey (Mr. LOBIONDO) in cosponsoring the Strickland-LoBiondo resolution to maintain current domestic sourcing standards.

APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore (Mr. SHIMKUS). Without objection, the Chair announces the Speaker's appointment of an additional conferee from the Committee on Ways and Means on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes:

Mr. RANGEL.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

KYOTO TREATY SHOULD BE DEALT WITH IN LIGHT OF DAY

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

Mr. KNOLLENBERG. Mr. Speaker, the U.N. treaty on climate change that was negotiated in Kyoto, Japan last December is a bum deal for this country. If ratified, this overreaching agreement would result in fewer American jobs, higher prices, a lower standard of living, and it will not reduce emissions.

Fortunately, there is strong opposition to this treaty in Congress, and the Clinton administration does not have the votes to win ratification in the Senate. However, faced with this dilemma, it appears the President will attempt to implement his policy objectives through regulatory fiat, executive orders and stealth tactics; regulatory end runs.

Congress must not allow this to happen. We must fight to defend our economic interests and we must fight to protect the integrity of the legislative process. To do anything less would be a grave disservice to the American people.

In yesterday's Investor's Business Daily, there is an editorial which highlights the Clinton administration's attempt to circumvent the will of Congress. Mr. Speaker, I urge my colleagues to read it and join in the effort to ensure that the Kyoto treaty is dealt with in the appropriate manner: in the light of day.

MR. BURTON SHOULD STEP ASIDE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, these are not my words: "If Republican leaders hope to preserve any shred of credibility in this House investigation, they must make it clear now that Mr. Burton must go. Must go now." The Albany Times Union, New York. Albany, New York, May 5, 1998.

The real question, Mr. Speaker, is would we want this to happen to us? Yes, the United States House of Representatives has the legal right to take the tapes that were taped of Mr. Hubbell in his conversations between his wife and attorney. The question is do they have the legal right to distort the truth before the American people? Do they have the right to selectively issue the transcripts? No, not distort the tapes, but selectively issue the transcripts.

Would we, as American citizens, want this to happen to us? Would we want our rights violated, our privacy destroyed and distorted? I believe not. And so the question becomes for this investigation to have any credibility, this person who leads out of this committee must step aside for us to be able to rise up and represent the American people.

THIS ADMINISTRATION NOT THE MOST ETHICAL

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

Mr. PETERSON of Pennsylvania. Mr. Speaker, for one minute let us say out loud what Republicans and Democrats on Capitol Hill are saying privately about what they are reluctant to say in public: The emperor has no clothes.

It is obvious that the people who came to Washington, promising the most ethical administration in history, is nothing of the sort. The nearly $3 million the Democratic National Committee returned after the 1996 election, because it came from foreign sources, was not raised by accident. White House assertions that they do not know how the White House ended up with 900 FBI files on Republicans are not true. And the assertion that no one knows who hired Craig Livingston is not only a lie, it is a laughable one. White House denials that the Lincoln bedroom was not sold or the White House coffees have nothing to do with fund-raising are lies.

Just more examples of an almost pathological inability to be honest with the American public. The latest scandals are simply more of the same, and they are popping up everywhere.

Mr. Speaker, why sugarcoat what everyone knows to be true. The emperor has no clothes.

CONGRESS IS SELLING ITS FISCAL SOUL

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

Mr. MINGE. Mr. Speaker, we have embarked on an era of political cronyism, plantation politics. This body recently passed a transportation bill that is $35 billion over budget. The bill did not pass on its merits but on the basis of 1,400 especially identified projects to garner the support of the Members of this body.

What does this mean? We are selling our fiscal soul; we are returning to the era of deficit spending. Or are we going to use the projected budget surplus for new programs as opposed to deficit reduction or for tax cuts as opposed to deficit reduction? Are we going to handicap our ability to address the problems of the Social Security System; or are we going to gut programs for veterans, agriculture, education, health care, seniors and our Nation's defense?

Mr. Speaker, we must not let the biggest pork barrel spending bill in the history of our Nation pass conference committee.

SUPPORT THE NATIONAL RIGHT TO WORK ACT

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

Mr. PAUL. Mr. Speaker, I rise today to speak for 80 percent of Americans

who support the National Right to Work Act, H.R. 59.

The National Right to Work Act repeals those sections of Federal law that give union officials the power to force workers to pay union dues as a condition of employment.

Compulsory unionism violates employers' and employees' constitutional rights of freedom of contract and association. Congress has no constitutional authority to force employees to pay union dues to a labor union as a condition of getting or keeping a job.

Passage of the National Right to Work Act would be a major step forward in ending Congress' illegitimate interference in the labor markets and liberating America's economy from heavy-handed government intervention. Since Congress created this injustice, we have the moral responsibility to work to end it, Mr. Speaker.

The 80 percent of Americans who support right-to-work deserve to know which Members of Congress support worker freedom. I, therefore, urge the congressional leadership, the majority of which have promised to place a National Right to Work Act on the floor, to fulfill their promise to the American people and schedule a time certain for a vote on H.R. 59.

RAISE LEGAL PURCHASE AGE FOR TOBACCO TO 21

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

Ms. DEGETTE. Mr. Speaker, if my colleagues pick up any copy of Rolling Stone or Sports Illustrated, they are certain to see tobacco advertisements dominating the pages. Why? Because these publications are aimed at college-aged kids, and tobacco companies know they must aggressively seduce this age group into smoking if they are to survive as an industry.

That is why R.J.R. has invested millions of dollars in its Camel Club Program in cities like Cleveland and in Denver, where college-aged kids hand out free cigarettes and R.J.R. paraphernalia to their peers.

Most minors under 21 who pick up smoking as a casual habit will become addicted to cigarettes for a lifetime. In fact, there is a less than 10 percent chance of becoming addicted to cigarettes if a smoker does not first light up before his or her first 21st birthday.

The only way to stop the tobacco industry from luring kids under 21 into using this deadly product is to make the sale of tobacco illegal to this age group. By raising the age to 21, we can stop this deadly practice.

REASONS FOR RELEASING THE HUBBELL TAPES

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

Mr. KANJORSKI. Mr. Speaker, I rise today on the occasion of being a member of the Committee on Government Reform and Oversight and the disagreements that have occurred between the minority and the majority.

I think it is vitally important to understand what some of the major issues are, and one of the issues being the tapes. I want all the American people to know that we believe that under the law, the committee is entitled to have the tapes. In fact, a subpoena was issued last July, and that subpoena was responded to by the Justice Department by providing our committee with all of the tapes of Mr. Hubbell's discussion with his family and friends while he was institutionalized in a Federal institution for conviction of a crime unrelated to Whitewater or anything that we are investigating.

The problem was should these tapes be released to the public and whether or not it in any way impeded what the committee was doing. The fact is we had the tapes for more than 6 months.

STOP KEYCHAIN GUN FROM BEING IMPORTED OR MANUFACTURED IN UNITED STATES

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

Mr. SCHUMER. Mr. Speaker, the front page today of the New York Times documents a new horrible device that has just been found. It is a gun that looks like a keychain, and its only purpose is to be smuggled through metal detectors at our airports. This is a dangerous device that could allow terrorists, criminals, drug dealers, and others to get guns through airports and into airplanes and in our country.

I am writing the President and asking that he administratively block the importation of this device. If that is not possible, then we should introduce and quickly pass legislation that would stop this so-called keychain gun from being imported or manufactured in the United States.

Mr. Speaker, abolishing this awful device with the only purpose of helping terrorists is something that even Charlton Heston could agree on.

□ 1030

SOCIAL SECURITY TRUST FUND

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

Mr. SMITH of Michigan. Mr. Speaker, I would like to call to the attention of my colleagues a bipartisan bill that we will be introducing. It deals with Social Security, the money that we are borrowing from the Social Security Trust Fund.

It does two things. It says, in the future when we borrow money from the Social Security Trust Fund, they will not be blank IOUs, as they are today, but they will be marketable Treasury notes that the trustees of the Social Security Administration can walk around the corridor and cash in when they need them.

The second thing this bill does is that it says, in the future, when CBO and OMB, the Congressional Budget Office and the Office of Management and Budget, issue projections of deficits or balanced budgets, they will not include the money that is borrowed from the Social Security Trust Fund. I invite my colleagues to cosponsor that bill with us.

It seems very important that we move ahead honestly and that we achieve a real, honest budget. Even though we have made great progress over the last several years, cutting down the deficit by $300 billion, let us move ahead.

MARRIAGE PENALTY TAX

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

Mr. HERGER. Mr. Speaker, as Mother's Day approaches, we should all remember that when a couple stands at the altar and says, "I do," they are not agreeing to higher taxes. Yet, under our current Tax Code, that is precisely what is happening to millions of married couples each and every year.

According to a recent report by the Congressional Budget Office, an estimated 42 percent of all married couples, some 21 million couples nationwide, incurred a Federal marriage penalty tax in 1996. The average marriage penalty that year approached an astounding $1,400.

Addressing this inequity in our tax law must be one of the top priorities of this Congress as we work to provide the American people further tax relief in 1998. This Mother's Day, I would urge all of my colleagues on both sides of the aisle to give the gift of tax fairness by supporting our efforts to eliminate the marriage penalty tax.

SCHOOL CHOICE

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

Mr. GUTKNECHT. Mr. Speaker, we have been having a debate here on the floor of the Congress about school choice and particularly here in the Washington district.

Jonathan Rauch writes on this issue in the last November 10 edition of the New Republic. He says he has always found it odd that the liberals have handed the issue to the Republicans

rather than grabbing it for themselves. He writes, "It's hard to get excited about improving rich suburban schools. However, for poor children, trapped, the case is moral rather than merely educational. These kids attend schools which cannot protect them, much less teach them. To require poor people to go to dangerous, dysfunctional schools that better-off people fled and would never tolerate for their own children, all the while intoning pieties about 'saving' public education, is worse than unsound public policy. It is repugnant public policy."

Mr. Speaker, we agree.

RECOGNIZING PUBLIC SERVICE BY WASHINGTON STATE BROADCASTERS

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

Mr. NETHERCUTT. Mr. Speaker, I rise today to call attention to the outstanding public service work being done by broadcasters across America and especially in my district in eastern Washington.

The Washington State Association of Broadcasters recently completed a survey of its membership and the results were extremely encouraging about the level and types of public service rendered on a daily basis by radio and TV stations in my State.

I want to particularly praise the fine work done by stations in my district, the fifth of Washington. KXLY-TV created a school attendance award that helped decrease truancy in Spokane middle schools. KHQ-TV spent hundreds of thousands of dollars for the "Success by Six" program that is helping children throughout Spokane middle schools learn to read by the time they are 6 years old. KREM-TV recently raised more than $166,000 for programs benefiting women and children, such as the YWCA Transitional School for Homeless Children. And KAYU-TV is teaching kids lessons about fire safety with PSAs throughout their children's programming.

There are many more examples of this kind of public service provided on a daily basis by local broadcasters in Washington State and across the Nation. We should thank these outstanding broadcasters who truly share the spirit of outstanding public service.

REFUSAL TO GRANT IMMUNITY TO FOUR KEY WITNESSES

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

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, what can Congress do to break a stone wall? Many of the key witnesses in congressional investigations have either fled the country or taken the fifth amendment. Others have hidden behind phony claims of executive privilege.

And if that is not enough, now we have Democrats on the House Government Reform and Oversight Committee who refuse to grant immunity to four key witnesses; even their own Justice Department consents to the granting of immunity to those four key witnesses.

What is Congress to do? Well, Congress can go to the courts and, thus, delay investigations for many more months, while listening to the White House and other defenders of this sleaze and obstruction to cry with indignation that the investigation is taking too long.

Mr. Speaker, why is this story not being told? Why cannot everyone, Democrats and Republicans alike, agree that no one is above the law and that the American people have a right to truthful answers?

Mr. Speaker, no amount of stonewalling should stand between the truth and the American people any longer.

CLARIFICATION TO APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore (Mr. SHIMKUS). Without objection, the Chair announces that the Speaker's appointment of additional conferees today from the Committee on Ways and Means were solely for consideration of title XI of the House bill and title VI of the Senate amendments and modifications committed to conference on the bill (H.R. 2400) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 419, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 419

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Printed amendments shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from South Boston, MA (Mr. MOAKLEY), pending which, I yield myself such time as I may consume.

Mr. Speaker, this modified open rule provides for consideration of H.R. 1817, the Communications Satellite Competition and Privatization Act of 1998. The rule provides for 1 hour of general debate equally divided between and controlled by the chairman and ranking minority member of the Committee on Commerce.

The rule makes in order as an original bill for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on Commerce now printed in the bill, which shall be considered as read.

The rule further provides for consideration of only those amendments that have been preprinted in the CONGRESSIONAL RECORD. The rule also allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and reduce voting time to 5 minutes on a postponed question if the vote follows a 15-minute vote. And finally, the rule provides for

one motion to recommit, with or without instructions.

Mr. Speaker, the United States is the leader of the international information-based economy. My home State of California is home to many industries that create and exploit the core technologies of the information economy, including telecommunications and satellite producers.

The goal of this legislation is to bring satellite communications into a new era of competition. We get there by encouraging an international cartel of largely government-run national telecommunications monopolies to undergo a process of competitive privatization. The winners will be the consumers of international telecommunications services, who will enjoy lower prices, better services, and technological innovation.

Without question, there are very legitimate areas of debate regarding the best means of moving to a private, free market in international satellite communications. Because of the complex nature of the international satellite cartel, this is a modified open rule that does not block any germane amendment from being considered by the full House as long as the amendment has been preprinted in the RECORD.

Mr. Speaker, this rule is deserving of bipartisan support, as is the bill. I look forward to the House working its will on the amendments submitted that have been printed in the RECORD, with the hope that the final product is something that can be signed into law so that we more fully enjoy the fruits of our information-based economy.

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

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

I thank my colleague, my dear friend the gentleman from California (Mr. DREIER), my chairman in waiting, for yielding me the customary half-hour. It might be a longer wait than he anticipates.

Mr. Speaker, I rise in support of this open rule, although I do not understand the need for the preprinting requirement. There were only two recorded votes in committee. There is nothing in the bill that could not be handled in a totally open rule.

Today's rule will make in order the Communications Satellite Competition and Privatization Act, which will end the COMSAT monopoly.

In 1962, Mr. Speaker, President Kennedy established an international satellite system which gave rise to two huge satellite cooperatives, INTELSAT and Inmarsat.

Since these cooperatives are so big and so powerful, they completely had the entire market on satellite programs. Right now, any communications company that wants to use the INTELSAT or the Inmarsat to transit into or out of the United States has to buy access through the COMSAT Corporation.

This bill will open competition in the international communications satellite system by encouraging INTELSAT and Inmarsat to privatize. It would help level the playing field and allow competing satellite companies to get into the business. Since the United States is such a leader in satellite technology, this privatization should be very good news for us.

COMSAT can continue to provide any service it wishes. It will just have to be subject to competition from other private-sector companies. So people who depend upon international communications, especially for international calls, the Internet, cellular phones, and video, can expect to see lower prices and much more choice in services.

So I urge my colleagues to support this rule.

□ 1045

Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY), the ranking minority member on the Subcommittee on Telecommunications, Trade, and Consumer Protection, the person who has all the questions and all the answers.

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY) for yielding me this time, and I thank everyone who has participated in this enormously important debate.

As has been pointed out by the gentleman from Massachusetts, back in 1962, largely in response to the challenge from the Soviet Union with the launch of Sputnik and the paranoia which overtook the West, the United States not only began a process of putting a man on the Moon and developing intercontinental ballistic missiles at a pace that had not yet been matched in our country, but it also helped to organize something which would create an international satellite consortium using government-based entities to launch these satellites, because there was no private sector capacity within the West in order to accomplish these goals.

This consortium, INTELSAT, later matched by another group called Inmarsat for satellite-based maritime communications, became the basis for, the foundation for, international satellite competition. It served us very well, as did most monopolies, in electricity, in local telephone, in long distance telephone, in cable in the initial stages of these industries. But over time it became clear that private sector competition in each one of these industries was possible. In each case, of course, the incumbent monopolist argued that it would be a takings, it would be illegal to take away this monopoly which had been granted by the government. But the reality was that the government had made a decision initially in order to grant to one entity the ability to be the first into the field, in order to establish it, but always retain the right to be able to break up the monopoly when private sector competition arrived.

Today we are going to debate the last frontier of monopolies, this one in outer space, this one where INTELSAT and Inmarsat, with its American signatory, COMSAT, seeks to retain its monopoly access to this satellite communication internationally. What our legislation does is break it up. It says to COMSAT, it says to INTELSAT, it says to Inmarsat, "You must privatize. You must move to the private sector. You must give access to every other private sector company to that which you have." That is the objective of this legislation.

The gentleman from Virginia (Mr. BLILEY), the chairman of the full committee, has been the leader on this issue, driving it as an important final stage of our efforts to have privatized this international telecommunications industry.

Now, these two entities, INTELSAT and Inmarsat, two international orbiting cartels, are not going to simply wake up one day and say, "Fine, take back our monopoly," because we have been waiting for the last 20 years for them to do that. It is not going to happen. They are not going to shed themselves of their privileged access to international frequency spectrum. They are not going to voluntarily give up their immunity from antitrust law. They are not going to compete against American-based satellite companies on an even ground, simply because we ask them to do so politely.

This legislation and the rule which accompanies it is a fair set of recommendations for the debate, and then for the substantive decision-making here on the floor. I hope that the Members today understand how historic this debate is. It really will help to revolutionize the way we communicate on this planet.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this very fair and balanced modified open rule and urge my colleagues to join in supporting it and to support the legislation that will follow.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 419 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1872.

The Chair designates the gentleman from Kansas (Mr. SNOWBARGER) as Chairman of the Committee of the Whole, and requests the gentleman from Illinois (Mr. LAHOOD) to assume the chair temporarily.

□ 1050

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization of satellite communications, and for other purposes, with Mr. LAHOOD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

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

Mr. Chairman, I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998. Today I ask that all Members support this bill and oppose all amendments.

Let us ask a question, if we had it all to do over again, would we want to use the model of the United Nations for supplying international communications? Would we trust an important part of the information age to intergovernmental organizations? Or instead would we rely on the free market? If the last three decades have taught us anything, Mr. Chairman, it is the failure of central planning and the inefficiency of government-run industry. If we have learned anything, it is that we should trust the marketplace.

The international satellite communications market is dominated by INTELSAT for fixed services like voice and video, and Inmarsat for mobile services like maritime and aeronautical. These intergovernmental organizations want to use their market power to expand into advanced services that the private sector is chomping at the bit to provide, like Internet access, direct broadcast services and hand-held phones. These intergovernmental organizations, or IGOs, are run by a combination of the world's governments and owned by a consortium of national telecommunications monopolies. By government monopolies, for government monopolies, of government monopolies. Their supporters call them a cooperative. Where I come from, that is called a cartel. Either way, it is high time for them to be privatized.

On that there is little disagreement. But more than just privatized, they must be privatized in a pro-competitive manner, in a manner that fosters competition. A privatized monopoly is still a monopoly nonetheless, and in a manner that relies on the marketplace, not on governments. In the current structure, the owners of the IGOs are the foreign telecom monopolists that often control licensing decisions and almost always control market access. Thus they have the ability and the incentive to keep U.S. satellite competitors from coming into their countries and competing against INTELSAT and Inmarsat. If we remove these distorting incentives, our communications satellite and aerospace industries, the most competitive in the world, will have a fair shot at breaking into foreign markets. But if we are to bring technology of modern telecommunications to all parts of the globe, if we are to make international telecommunications truly affordable, then we have to muster the courage to privatize the cartels and force them to compete on a level playing field, putting our faith in the private sector and the free market.

The gentleman from Massachusetts (Mr. MARKEY) and I have introduced this legislation to do just that. It encourages privatization of the IGOs in a way that fosters competition rather than snuffing it out. It provides for privatization of INTELSAT by 2002 and Inmarsat by 2001, more than enough time for these organizations to privatize. More importantly, it requires privatization in a way that fosters competition. If they do not privatize in a pro-competitive manner, the bill limits these organizations' access to American markets for non-core services. Moreover, if they do not make progress towards privatization, they cannot provide under new contracts highly advanced services better left to the private sector.

The only effective way to get the IGOs to move is to use access to the U.S. market as leverage. The IGOs are immune and privileged treaty-based organizations. You cannot sue them, you cannot tax them nor can you regulate them. We have to use the only lever that we have, market access. The bill's mechanisms are akin to telling the Japanese that they cannot bring in all the cars they want unless they allow imports of American products. COMSAT, the U.S. signatory, and IGO reseller, is like the Isuzu dealer in Bethesda. The Isuzu dealer is a U.S. company but they are selling a foreign product. Here COMSAT is selling a foreign, intergovernmental product. By the way, our bill expressly permits COMSAT to sell any service it chooses if it does so over a system independent from the IGOs. Only where they choose to use the IGO facilities and if the IGOs do not progress toward a pro-competitive privatization would market access be threatened. The threatened restriction is on IGO services, so it could apply to any distributor of IGO services whether that is COMSAT or a new competitor after COMSAT's monopoly is eliminated.

Our legislation will eliminate COMSAT's monopoly by permitting competition for access to the IGOs. Such competition is called direct access. According to the FCC, COMSAT's average margin in reselling INTELSAT service is an amazing 68 percent. Not bad if you can get it, but very bad if you happen to be a consumer. Every cent of COMSAT's high prices comes from the pockets of American consumers. But COMSAT has used its position as the monopoly provider of IGO services to force users to sign long-term take-or-pay contracts so they will not be able to take advantage of the competition direct access will permit. Thus the bill provides what is called "fresh look," which allows consumers to have a one-time chance to renegotiate monopoly take-or-pay contracts.

During the committee process, we defeated an amendment that would have eliminated using access to the U.S. market as a lever. We defeated an amendment to eliminate the potential restrictions on expansion if progress is not made toward privatization. We defeated an amendment to strike out fresh look. We accepted amendments which went a long way toward meeting concerns some Members and COMSAT had raised, and made other changes to accommodate their concerns. And the bill passed by voice vote.

The bill has been endorsed by every private satellite services company from GE to Motorola, TRW to Boeing, Teledesic to PanAmSat. It has also been endorsed by major users of the systems, AT&T, MCI and Sprint, maritime users and a variety of ethnic groups because of consumer cost savings that will come with the bill. Over 40 endorsements and counting. The U.S. signatory to the IGOs, COMSAT, of course, opposes it and they will oppose any effort at reform. It ends their monopoly and would force the IGOs to give up their special advantages when they privatize. A level playing field is not welcome when you have been the government-backed monopolist. They will use every tactic they can to trip up reform. We will have amendments that may sound reasonable, but in effect remove any incentives for the IGOs to privatize. I urge Members to ignore the rhetoric and oppose all amendments.

H.R. 1872 is, in the words of one industry coalition, a moderate and balanced approach. Consumers and taxpayers will benefit from the lower prices it will bring, and businesses and their employees will benefit from the new markets it will open.

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

Mr. MARKEY. Mr. Chairman, I yield my time to the gentleman from Michigan (Mr. DINGELL), and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DINGELL. Mr. Chairman, I yield myself 6½ minutes.

□ 1100

Mr. Chairman, I want to express affection and respect for my good friend, the chairman of the committee, the gentleman from Virginia (Mr. BLILEY) and I also want to express the same good feelings towards my friend from Massachusetts (Mr. MARKEY). They are fine Members, and the fact we have a difference here does in no way diminish my respect or affection for either of these fine gentleman.

The simple fact of the matter, however, is this is a bad piece of legislation. It is unfair, it subjects the taxpayers of the United States to large liability under the Tucker Act, and I am talking about billions of dollars. This Congress has learned before that this is a risk, but it appears that we have to relearn the unfortunate lessons that we learned when we wrote the legislation on Conrail and when we did away with the unfortunate New York Central Railroad, and the bankruptcy and the reorganization by statute. We subjected the taxpayers to about $6½ billion in liabilities because we interfered with the contracts, we interfered with the business, and we interfered with the goodwill and the going value of the corporation, and it cost the taxpayers dearly. This is not a mistake which we should repeat today.

Mr. Chairman, H.R. 1872 has laudable goals. Unfortunately this legislation is going to fail. It is anticompetitive, it is anticonsumer and, worse, it is unconstitutional. The bill would impose draconian measures which would limit not only INTELSAT or Inmarsat, but it would also limit their U.S. customers. The bill unilaterally dictates complete privatization by legislative edict. If it were that simple, these treaty organizations could have long since been privatized.

I would point out these are treaty organizations. The United States cannot unilaterally impose its will on better than 141 sovereign nations who are party to these treaties. The bill disregards the cold hard fact that the United States has but one vote in the governance of INTELSAT and Inmarsat. Congress cannot change that unfortunate international reality.

It should be clear to anyone that this approach has no chance of success. If any foreign country wants to scuttle privatization efforts, this train will be immediately derailed and vital American interests will suffer.

The interesting thing is that foreign countries cannot only hurt Inmarsat and INTELSAT in this process, but, very frankly, they can hurt American corporations and American competitiveness and American business going well beyond these two entities.

I for one cannot support a bill that holds American interests hostage to the whims of 141 countries and that makes American carriers, innocent of wrongdoing, who have been held to be nondominant carriers just recently by the FCC, be at the mercy of foreign competitors.

When service restrictions contained in this bill kick in, hundreds of millions of dollars in American investments in satellite equipment will be made obsolete overnight.

If this were not bad enough, COMSAT, which is a private corporation publicly traded on the U.S. stock markets, will be ruined financially. Congress made a policy decision to fund these international satellite systems by putting private capital at risk instead of taxpayers' money, and when those private taxpayers' moneys and those stockholders' moneys are lost, the Federal Government will have a liability under the Tucker Act.

It should be noted that the United States Government encouraged and in many instances required COMSAT to invest in these systems in exchange for the responsibility and the opportunity to earn a reasonable return. That would be taken away from COMSAT.

And the practical result of this is again liability on the part of American taxpayers because of an unconstitutional action and an unconstitutional taking by this Congress of property belonging to private American citizens, which subjects this government immediately to redress under the Tucker Act.

For the government to breach this bargain, obliterating the value of this investment, then serious constitutional concerns are raised under the takings clause of the fifth amendment. The report can tell my colleagues until the committee is blue in the face that this is not going to be the fact, but be assured that it will be, and my colleagues are playing fast and loose with the taxpayers' money if they vote for this legislation. This provision alone will subject American taxpayers to claims for damages running to billions of dollars.

It should also be noted that this claim will fail. There is no reason to believe this, given the clear Supreme Court's precedents on these matters. And I would note that American users, as well as Inmarsat and INTELSAT, will suffer and will face the severe adverse impact that will flow from an unwise, unconstitutional, and unnecessary governmental action.

In any event, this Congress should not be willing to throw away billions of taxpayers' dollars on a litigation strategy that at best is no more than a crap shoot.

In sum, H.R. 1872 is a bad bill. It is in desperate need of radical surgery. It contains more constitutional law problems than a first year law school exam.

I urge my colleagues to join in defeating what is here, an ill-conceived budget-breaking bill that is going to waste taxpayers' moneys without any benefit to the taxpayers or to the country; and it will subject, I reiterate, our constituents to claims for billions of dollars in damages, with no hope or expectation of gain for the country, for competitiveness, or anything else.

Mr. Chairman, I urge the rejection of the bill, and I urge the adoption of the amendment which will shortly be offered by my good friend from Louisiana (Mr. TAUZIN).

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

Mr. BLILEY. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, let me first tell my colleagues that there is good news and bad news today. The good news is that this bill in this form will never see the light of day; it will not get through this Congress. It will not see the light of day in the Senate and should not in its current form. The bad news is the same; that this bill could fail, it could not become law because of its current form.

What I am rising today to ask this House to consider are amendments to this bill to put it in the shape so that it can become good law, the Senate and the other body can in fact take it up, and we might accomplish the goals of this legislation.

Let me first commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for the goals of this legislation. It is indeed on target. It is designed to privatize these treaty organizations and encourage that process as rapidly as possible.

Unfortunately, the bill is weighed down with several provisions which, as the gentleman from Michigan (Mr. DINGELL) pointed out, are clearly takings under the fifth amendment of the United States Constitution and which clearly will subject the Federal Government to the possibility of huge settlements and huge lawsuits against this government for taking private property without compensation.

Later on in this debate, the gentlewoman from Maryland (Mrs. MORELLA) and I will be offering amendments to deal with those sections of the bill. If those amendments are adopted, this bill will be put into shape, and then it should become law, and maybe it will have a chance on the other side. If those amendments fail, then I predict this bill will never see the light of day and will never become law in this Congress, and that is a shame. I should

hope we have the good sense to pass those two amendments.

In the course of this debate, I will point out to my colleagues that in this bill is a provision that abrogates private contracts. In this bill Congress will be changing private contracts and allowing people to get out of contracts they signed. In the course of this debate, I will show my colleagues that one of the competitors to COMSAT took this issue to court and lost; lost in Federal district court and in their request to have these contracts abrogated. And now in this bill we are being asked as a Congress to change that Federal court decision and to permit the abrogation of those long-term contracts.

Just on April 24, our FCC ruled that those COMSAT contracts were not monopolistic contracts, were entitled to the respect of law, and yet this bill will permit those contracts to be abrogated. By congressional action it will say that customers who signed the contract can get out of it when they want to, when the time comes in just a couple of years for them to do so.

In short, we will be presenting to our colleagues in this debate today several ways in which this bill can be improved so that it can go forward and hopefully become law. Without those changes, this bill will amount to congressional authorization of taking of private property from an American private corporation, will damage the facility of that corporation to provide service to American customers, and will in fact deny those American customers the right to use that American corporation in the facilitation of services for their customer base.

In short, this bill as it is currently written is going down, if not here, somewhere in this process.

Today we will have an opportunity to fix it in two very important aspects: to remove those private takings of private property without compensation, to protect the American taxpayer from these lawsuits and to protect the customers of a private American company from abrogation of their contract rights.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I am pleased to rise in support of H.R. 1872, legislation which will bring about the privatization of INTELSAT and Inmarsat.

When Neil Armstrong took the first steps on the surface of the Moon in 1969, the world was able to watch each step because of a successful Cold War collaboration known as INTELSAT. It was a network of three satellites at the time, just enough to provide global coverage of the Moon landing. It is now a network of 24 satellites offering voice, data, and video services around the world. Combined with Inmarsat's eight satellites, these ventures should be viewed as two of the most important successful international cooperation efforts ever undertaken.

The United States demonstrated great leadership when it helped create INTELSAT. I think we must demonstrate our leadership once again in making the changes necessary to fit our times by privatizing INTELSAT and Inmarsat. There is agreement on the goal of privatization, but how we get there is the key question. During subcommittee and full committee consideration of the bill, sponsors sought to address many of the concerns raised.

I commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) on their efforts to bring us closer to a consensus. I realize some still have reservations about the bill, but it is important to recognize that compromises and concessions have been made.

Concerns were raised about service restrictions on COMSAT. Those provisions were moderated. Concerns were raised about so-called fresh-look provisions. Those provisions were moderated. At some point, we need to ask whether those seeking further compromise are asking for changes to improve the bill or to kill it.

In closing, I want to bring to the attention of my colleagues my concerns with INTELSAT's current plan to spin off a private entity. Ever since the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Committee on Commerce held a hearing on competition in the satellite industry over a year and a half ago, I have consistently raised concerns that any privatized spinoffs from INTELSAT or Inmarsat must be pro-competitive. The process of privatization we are supporting today is undermined if the privatized entity is created with unfair competitive advantages.

I look forward to moving this bill today, and I ask my colleagues to keep in mind whether those that are opposed are doing it to kill the bill or really to improve it.

With that, Mr. Chairman, I urge my colleagues to support H.R. 1872.

□ 1115

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. Mr. Chairman, I thank the Chairman for yielding, and I rise in support of H.R. 1872. This bipartisan bill, of which I am a cosponsor, is intended to bring competition to the intergovernmental satellite organizations, INTELSAT and Inmarsat. It will also remove COMSAT's monopoly over access to these organizations.

Fundamentally, this bill is a major policy decision that commercial satellite services should be provided by the private sector worldwide and not by the government. The government consortia may have been needed to run an international satellite system in the 1960s, but after almost 40 years, things change. We need to update our laws and our regulations to reflect the current marketplace.

In addition, increasing the competitive nature of the international satellite marketplace is very important to ensure that private American satellite companies can compete on a level playing field. And today, the playing field is tilted toward INTELSAT and Inmarsat. These organizations are owned by monopoly providers of telecommunications services worldwide. Working in cartel fashion, they have tried to keep competition from developing.

There are two other important provisions in this bill providing for "direct access" and "fresh look," and I presume my time has expired.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time, and for his leadership on this issue.

Mr. Chairman, I rise today in strong opposition to H.R. 1872, and also in strong support of the Tauzin and the Morella amendments which are to come. This legislation, should it pass without these amendments, will set back 3 decades of American leadership in international satellite communications and reverse the trend toward increasing competition in the satellite industry.

The legislation before us today establishes unrealistic timetables and conditions for the privatization of INTELSAT and Inmarsat, prohibits any organization from being used to provide critical noncore satellite services to customers in the United States if the bill's rigid privatization deadlines are not met, and that is just not right.

Now, this legislation has laudable goals, and I appreciate its intent. Unfortunately, its approach is somewhat bludgeon-like, and the sponsors have taken a somewhat misguided and punitive approach, an approach that is so unfair that it has been denounced in publications as ideologically diverse as the Washington Times and the Boston Globe.

They would have us believe that COMSAT is a monopoly. They would have us believe that COMSAT is in fact the Microsoft of the satellite industry.

COMSAT is a United States company that is going to be punished by this bill. It is a publicly traded, U.S. company. It is not true that it is a monopoly. In fact, there are currently more than 20 competitors for COMSAT with more than $14 billion in investments and $40 billion in stock. If this is not competition, I do not know what is.

If we look a little further, in 1988 COMSAT controlled 70 percent of the

market. That is not true today; they only control 21 percent. In fact, on April 28 of this year, the FCC declared that COMSAT is nondominant in most of its market. This effectively eliminates arguments that we will hear that we are trying to get rid of some terrible monopoly. The monopoly does not exist.

What we have is a United States company that is going to be severely punished as a result of this legislation.

COMSAT has represented the United States' interests in international satellite communications for 30 years. The company has played a leading role in moving toward privatization. The plans that are adopted currently by INTELSAT reflect the involvement of COMSAT.

Since its inception, COMSAT has never wavered from its mandate to provide satellite communications to some of the most remote parts of the world. It has done outstanding work. But now, they are faced with an unprecedented legislative attack that will put this U.S. company out of business, this company that hires over 1,000 American citizens.

What does this bill do? It imposes some very un-American things on an American company. It imposes service restrictions on the new satellite communications service that COMSAT could offer to its customers. This would include high-speed data services, Internet access services, and land mobile communication; basically, taking the heart out of COMSAT's business. But even worse, it would abrogate contracts; that is, existing contracts could be set aside under the terms of this legislation to the detriment of COMSAT, all supposedly to promote privatization. In fact, this approach would undercut active efforts that are going on today to move toward privatization by imposing these unrealistic timetables.

Mr. Chairman, I think we do need to take a stand for privatization, but we need to be careful where we stand. We should not punish U.S. companies, we should not punish U.S. employees for actions by international organizations that they cannot control. We need to take a look at amendments that could help this bill, amendments we will hear about from the gentleman from Louisiana (Mr. TAUZIN) and from my colleague, the gentlewoman from Montgomery County, Maryland (Mrs. MORELLA). I think if we add these amendments, we can improve this bill. But as it stands, this bill is an unconstitutional taking from a U.S. company. It is punitive, it is unfair, and I hope this House will reject it.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS), a member of the committee.

Mr. STEARNS. Mr. Chairman, I rise in support of H.R. 1872.

I do not think there is anybody in this House that disagrees that we have to deregulate, and I am glad that the former speaker indicated he also agrees that we need to deregulate. So the goal of this legislation is to privatize INTELSAT and Inmarsat satellite systems, of which COMSAT is the U.S. representative; and even COMSAT itself agrees that we need to deregulate.

I am glad to point out that I have worked hard to ensure that the results will be INTELSAT and Inmarsat and their spin-offs will be healthy, private companies able to compete in the competitive satellite marketplace. Working with the chairman of the committee, the gentleman from Virginia (Mr. BLILEY), we were able to improve the bill in the committee process to make it more equitable and measure up to the approach of privatizing systems.

The original text of the bill inserted a retroactive date of May 12, 1997 in certain sections of the bill and, in effect, would have hurt COMSAT from making use of the significant investments in replacement satellites and in satellites for new orbital slots which they made since May 12, 1997. We were able to compromise and used the date of our Committee on Commerce markup of March 25, 1998 as the date of cutoff for replacement satellites in orbital slots. This change will allow COMSAT, as a U.S. representative to the INTELSAT and Inmarsat system, the use of hundreds of millions of dollars in investment. I bring that to the attention of my colleagues who are not in favor of this bill, because that amendment moved forward to give more equitableness to the COMSAT deregulation portion here.

Mr. Chairman, I am also sympathetic to the comments of the gentleman from Louisiana (Mr. TAUZIN), and I welcome the debate on this about the "fresh look" provisions in the bill and the debate in which we will be talking about what will be raised in the amendments. I think we need to look at all of the problems and make this the best bill possible to ensure that the potential financial liability to the U.S. taxpayer is resolved.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I rise in support of this legislation. I am going to focus on two issues that several of my colleagues have raised. The first is whether or not there is an existing monopoly in satellite telecommunications internationally. The facts are, contrary to what the gentleman from Maryland (Mr. WYNN) has mentioned, I guess it is in the eyes of the beholder how we look at it, but let me talk specifically about facts.

If one is in the United States of America and he wants to make a phone call or receive video from a location overseas that is serviced through a satellite system, the only way to do it, the only way, is through COMSAT. That is a statutory monopoly that this Congress had granted and has granted and is the existing law. That is a fact; there is a statutory monopoly in terms of communications through the INTELSAT system.

There are alternative ways, but in some locations there are not. In fact, if one wants to call Africa or Asia, or if one wants to send video from Iran back to America, there is just no other alternative. So that is the first issue. There is a statutory monopoly.

Let me also respond, we are going to have several amendments on this, but I think it is going to be the heart of a lot of the debate that is going to take place this morning, the issue of whether we are abrogating contracts and what that means. Since there is an existing monopoly, that monopoly had the power to have contracts, essentially forced contracts, monopoly contractual terms on a variety of consumers throughout the United States of America. And just as has been done previously in telecommunications issues, specifically regarding when AT&T broke up in terms of long-distance service, in a monopoly situation which did exist and does exist today, when we are breaking up the monopoly, which is appropriate in terms of service and price for our economy and every citizen of the United States, we have to view how those contracts were established, and those contracts were established in a monopoly situation. So it is clearly appropriate for us to make that change which is not precedent-making, which we have done previously on several occasions in telecommunications in addressing monopoly situations.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I rise today to commend the gentleman from Virginia (Mr. BLILEY), the chairman of the committee, and the gentleman from Massachusetts (Mr. MARKEY) for the fine work that they have done on this bill, and to urge my colleagues to support H.R. 1872.

This base bill aims to eliminate the last statutory monopoly in the U.S. telecommunications market by subjecting COMSAT to competition and taking steps to privatize INTELSAT and Inmarsat. Monopolies and organizations like international consortia may have made sense back in the 1960s when Congress first passed the Satellite Act, but they do not make sense today.

Having said that, I do think we need to examine thoroughly the Tauzin and Morella amendment. But the world has changed dramatically in the years since Congress enacted the Satellite Act. Technology and the economy have evolved to the point that it is possible for private companies to do what once we thought only governments could do.

So I rise in support of this bill.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I would like to thank my good friend from Michigan, our ranking member (Mr. DINGELL) for allowing me to speak for 2 minutes.

I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act. In committee several modifications were indicated to accommodate the concerns that I had, as well as other Members, and we believe that we have addressed the legitimate issues, and I urge my colleagues to support the bill.

I want to thank the gentleman from Virginia, (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for addressing the issues of the maritime concerns. Mr. Chairman, I would like to ask unanimous consent to place into the RECORD a letter to the Chairman of the committee, the gentleman from Virginia (Mr. BLILEY) from the Chamber of Shipping of America in support of the bill, in support of the changes that were made, both in the committee and in the chairman's mark.

H.R. 1872 will start the privatization of both INTELSAT and Inmarsat. These global satellite network systems help provide services such as telephoning long distance and maritime safety services. The maritime industry plays an important role in my district, particularly because of the Port of Houston.

During committee consideration, concerns were expressed about the impact of this privatization effort on maritime safety services. I am particularly concerned with the Global Maritime Distress and Safety Service which is provided by COMSAT using the Inmarsat satellite system. Currently, the GMDSS that is connected to a ship's communication systems allows a vessel to reach maritime rescue services at the push of a button. The modifications made in committee and supported by the letter that I will put into the RECORD will take positive steps to maintain and assist and improve the GMDSS.

These modifications ensure that maritime safety devices and services will always be available to our shipping industry. For example, a provision was added which clarifies that the United States will not oppose the registration of orbital locations for Inmarsat replacement satellites.

H.R. 1872 also requires the FCC to consider equipment cost and design change and design life of maritime communications equipment when making a licensing decision. This provision, added, makes sure that the maritime industry's investments in communications equipment are not rendered useless or become too costly because of competition. This bill will help increase marketplace choice, and again, I urge passage of this bill. Mr. Chairman, at this time I include for the RECORD the letter previously referred to.

CHAMBER OF SHIPPING OF AMERICA,
Washington, DC, April 29, 1998.

Hon. THOMAS J. BLILEY,
Chairman, House Commerce Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN BLILEY: The purpose of this letter is to express our appreciation for your willingness to respond to our concerns outlined in our letter of February 26, 1998, with regard to the Communications Satellite Competition and Privatization Act, H.R. 1872.

As we indicated previously, our members are the end users of these systems and, as such, generally support the concept of privatization since, if properly done, will ultimately result in better service at a lower cost to the end user.

As you recall, our concerns related to continuity of service of the GMDSS and commercial maritime functions, as well as the need to mitigate substantial investments in new equipment by users who have recently made expenditures for equipment which interfaces with existing systems.

On review of the substitute bill and amendments as reported out of your Committee, we are pleased to find provisions that address our concerns, specifically as follows:

Section 601(b)(3), Clarification: Competitive Safeguards relating to the existence of non-core services at competitive rates, terms, or conditions.

Section 624 (2) and (7) relating to preservation, maintenance and improvement of the GMDSS.

Section 681(a) (11) and (21), Definitions relating to non-core services and GMDSS.

We understand these considerations to be several of many which the FCC will consider in future action. We urge you to include in the record language that reemphasizes these issues which are so critical to the continued safety of mariners worldwide and the continued reliability of the U.S. maritime industry.

Mr. Chairman, we know this has been a challenging issue for all involved and we truly appreciate your leadership in assuring the concerns of the maritime industry are adequately addressed. We look forward to continued work with you and your Committee in the future.

Sincerely,

KATHY J. METCALF,
Director, Maritime Affairs.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I want to commend the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for authoring this legislation.

Two years ago we passed historic legislation that has put us well down the road towards bringing telecommunications competition to all markets within the United States. With H.R. 1872, we take another major step towards reaching the same objective in the provision of international satellite services.

As we take this step, I want to draw attention to one of the bill's most important features, a provision called "fresh look." "Fresh look" is a tool that is intended to accelerate the transition from monopoly to competition by giving purchasers of service a window of opportunity to renegotiate long-term contracts entered into under the assumption that the seller was and would continue to be the sole provider of service. It is a tool that has been used by the Federal Communications Commission in several proceedings. It has also been used by State public utility commissions in California, Colorado, Michigan and Ohio.

□ 1130

While the "fresh look" tool should not be abused, it is useful when employed, as it would be under this bill, to ensure that consumers are ready to realize near-term benefits from the opening of the market to competition.

Mr. Chairman, I support the bill and most particularly the open "fresh look" provisions.

The CHAIRMAN pro tempore (Mr. LAHOOD). The Chair would advise both sides they each have 13 minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL) very much for yielding me this time.

Mr. Chairman, in 1945, a visionary, Arthur C. Clarke, began this international space odyssey in writing an article which pointed out that by the positioning of satellites at a point over the Earth's equator, it would be possible to create an international telecommunications satellite-driven system for all the entire world.

Now, this vision of Arthur C. Clarke was one that only really began to be implemented in 1962 with the creation of INTELSAT, a government-driven organization, necessarily because of the need for the missiles to shoot the satellites up and the government contracts to construct the satellites.

However, as the years have gone by, it has become clear that private sector companies as well can compete in this marketplace, and there have been dozens of companies, many of them successful, which have begun the process of entering these marketplaces. And so now the test for American and international policymakers is to match the vision of Arthur C. Clarke with the philosophy of Adam Smith. That is roofless, Darwinian capitalism. We must ensure that we have made a full injection into this international satellite cartel of the reality that they are competing for business with other companies.

Now, America has the lead in this field. We are number one, looking over our shoulders at number two and number three. The major obstacle to us

leaping out into an almost insurmountable lead is this international cartel; government-granted, government-sanctioned, and 30 years old. It is time for us to end this cartel and allow these American-based satellite companies to get out and into international markets.

Now, why is this important? It is because as this Congress has voted for NAFTA, for GATT, for the WTO, we are essentially saying as a country that we are going to allow our low-end jobs to go to Third World countries. That is what we are saying. But in turn what we are saying, quite self-confidently, is that we believe that we can capture the lion's share of the high-end jobs, the technology-based jobs, the jobs that relate to the high education in our country.

We cannot allow an international cartel to continue to wall out American companies from the marketplaces of this planet because that is where our great high-tech education-based opportunities lie.

Otherwise, we have the worst of all worlds. Our low-end jobs go as Third World countries produce these manual labor products, but we do not gain access to the markets in these countries around the world where we can market our high-end products.

This bill telescopes the time frame that it will take for America to have its companies gain access to every single country in the world with the satellite-based services, and in every one of the service areas. That is why we bring this bill to the floor today.

And it is not to put COMSAT out of business. COMSAT will remain in business. It will remain competitive. It will remain with the capacity to enter into any one of these markets, but only at the point at which it is privatized, only at the point at which COMSAT, with INTELSAT, has given up its monopoly.

Mr. Chairman, I again thank the gentleman from Michigan (Mr. DINGELL) for the time that he has yielded to me, and I hope that this legislation passes.

Mr. OXLEY. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Ohio (Mr. OXLEY) for yielding me this time. I appreciate the time and effort to discuss something that I find myself in agreement with.

And I congratulate the gentleman from Virginia (Chairman BLILEY) on his good works in this, and it is a pleasure for me to follow the gentleman from Massachusetts (Mr. MARKEY), my friend. It is not often that we agree, and it is great to hear the gentleman have discussions about Adam Smith.

Mr. Chairman, it is a pleasure to ask all of my colleagues to support H.R. 1872, a long overdue piece of legislation. The law we seek to amend here today is about as outdated as rotary dial telephones, and as obsolete as rabbit ears on a television set.

When the Satellite Act was written, a government-run consortium made sense. Today it simply does not. Private companies across the globe can now offer competitive, high-quality international satellite service, but only if we empower them to do so by passing this legislation, H.R. 1872, and eliminating the competitive advantages enjoyed by INTELSAT and Inmarsat.

A recent study prepared by the Satellite Users Coalition documented that passage of H.R. 1872 would produce cost savings reaching as high as $2.9 billion for the American consumers over the next 10 years. Additionally, this study went on to say and calculated that through the expected competition brought about by meaningful reform, consumers around the world could expect savings of $6.9 billion over that same period.

The most important consumer benefit, though, Mr. Chairman, however may not be the savings but rather the wealth of new innovation that competition will invariably bring to the satellite industry. More than 30 years ago, governments around the world had the best intentions when they took a risk and created an international satellite system. Back then, the goal was to push technology forward and expand the reach of the communication industry. Today it is clear that INTELSAT and Inmarsat have served their purpose.

Therefore, I urge my friends and colleagues to support H.R. 1872 and help us bring real competition to the market for satellite communications as soon as possible.

Mr. OXLEY. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I rise in support of H.R. 1872 and commend the gentleman from Virginia (Chairman BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) for their strong leadership in bringing this issue to the floor.

There can be no doubt that the time has come for privatizing and restructuring the intergovernmental satellite organizations. While there may be some differences of opinion on the components as we move forward, there is certainly unanimity about the fact that privatization and increased competition in satellite communications are best for the marketplace and best for the consumer.

To illustrate this point, it is worth noting that a significant development has occurred since the Committee on Commerce acted on the bill. The international government organization INTELSAT, consisting of 142 member countries, agreed on March 30 of this year to move toward privatization by creating a private company separate from INTELSAT to compete in the commercial satellite marketplace. The member countries of INTELSAT, after a lengthy negotiation process heavily influenced by the United States, came to a unanimous agreement to voluntary spin off assets and create a new competitive entity.

While some may question whether this privatization effort is sufficiently procompetitive, it strongly demonstrates the recognition around the globe of the need to privatize and enhance competition in the international satellite market.

Mr. Chairman, I also believe that it clearly demonstrates the extent to which the leadership of the gentleman from Virginia (Mr. BLILEY) has garnered the attention of the industry and the markets, and for that the courage and leadership shown by the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Virginia (Mr. BLILEY) are to be commended.

Mr. Chairman, I encourage all Members to support this legislation.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. FORBES).

Mr. FORBES. Mr. Chairman, I thank the gentleman from Virginia for yielding me this time.

Mr. Chairman, I rise today in support of H.R. 1872, a much-needed measure which will provide improved and cost-effective international communications by allowing dozens of private sector companies to compete in the marketplace.

As we look to the global marketplace and we can think about the many people who have come to contribute to the greatness of this land, we know that there is a great need out there for many Americans, American consumers, to take advantage of lower cost in international communications. This measure provides for that in a different time in a different place. This measure is now greatly needed to replace the government-sponsored corporation that had a lock on this marketplace.

This is about real people needing to communicate in a cost-effective manner. Not about multinational corporations, real people who believe that this measure is long overdue: The Polish American Congress, the Hispanic Council on International Relations, the National Association of Latino and Appointed Elected Officials, the Armenian National Committee of America, the Cuban American Council, the National Council of La Raza and the Puerto Rican Legal Defense and Education Fund. These are real people who want to take advantage of lower cost communications and I urge adoption of the Bliley-Markey bill.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I thank the gentleman from Virginia (Mr. BLILEY) for this time, and also commend the gentleman from Massachusetts

(Mr. MARKEY) for their bill and rise in strong support.

Mr. Chairman, I believe in real competition and meaningful choice, and this bill offers that.

Today the House will be considering important legislation designed to bring satellite communications technology into the modern age. I would like to commend the Chairman of the Commerce Committee, Mr. BLILEY, and his original cosponsor, Mr. MARKEY, for introducing H.R. 1872, the bill to privatize the intergovernmental satellite organizations. It has been endorsed by every private satellite services company and the major users of satellite services.

Two intergovernmental organizations dominate international satellite communications. They are called INTELSAT and Inmarsat. They are owned by a cartel like structure of all the world's state telephone companies. The same companies that control access to national markets, and thus keep out American companies that want to compete with these organizations.

H.R. 1872 privatizes the intergovernmental satellite organizations, and even more, does so in a pro-competitive manner. Now, they will never privatize pro-competitively on their own—they like either the status quo or a privatized monopoly. That is why the bill uses access to the U.S. market for advanced services as a lever to make sure they are privatized pro-competitively.

Comsat has a monopoly over sales of intergovernmental organization services in the U.S.—over 90 other countries permit competition for access to these organizations, and this bill brings us into line with the rest of the world. It also allows customers to renegotiate long-term "take or pay" contracts they were forced to sign by the COMSAT monopoly. Of course the monopoly wants to keep them locked in so consumers do not get the benefits of competition. But the bill, through the very important "fresh look" provision allows customers to get the benefits of competition. I urge members to vote for the bill and oppose amendments designed to eliminate fresh look or the bill's market access leverage.

Supporters of the status quo will try to divert the issue with rhetoric about takings or punishment of the monopoly, but these arguments are just a smokescreen for protecting the incumbent. Support H.R. 1872 today—reform is long overdue. Customers need lower prices, and new, American, competitors need access to foreign markets.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentlemen from Virginia (Mr. DAVIS).

Mr. DAVIS of Virginia. Mr. Chairman, we are dealing with a structure today that is a dinosaur and H.R. 1872 remedies that. Thirty-five years is a long time since the original act and in the communications industry it is even a longer time. And since the act was passed originally, technology, the worldwide industry structure have changed dramatically. A monopoly structure might have been required at the time to develop a global network, but today it has become a problem, a dinosaur keeping rates far above the costs and limiting the service and facility innovation that we would otherwise get.

This legislation solves that problem. It opens up the international satellite markets to facilities-based competition, and it properly restricts the activities of the international satellite organizations until this goal is well on its way.

It permits providers other than COMSAT to directly access INTELSAT and Inmarsat so that rates for end users can go down more immediately. It allows customers to take advantage of these lower rates by permitting them to renegotiate contracts agreed upon when only a monopoly existed before.

As for COMSAT and the international organizations, it allows them to move ahead in this new competitive environment so long as they operate in the best interest of a competitive marketplace.

Mr. Chairman, if we want the 21st century to be America's century, we need to continue to restructure our competitive environment so that we can compete and maintain our edge globally and this legislation does that. This opens up tremendous potential for U.S. consumers and industry. I think that it is particularly good for the end users, the consumers around the globe.

And just as we have seen in the domestic telecommunications market, competition brings lower rates, better services, and increased technological innovations.

□ 1145

The very same benefits are going to come from this important bill in the international satellite marketplace. I think it deserves the support of everyone in this Chamber.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite and Privatization Act of 1998.

I believe this legislation will speed the transformation of two international satellite governmental bodies into competitive commercial organizations. The bill will bring competition to the international satellite industry and ultimately, in my judgment, lead to lower telephone rates on long distance international calls and improved services.

Long distance companies use satellites to complete many of their calls so the rates they pay for satellite time directly affects the rates consumers pay for international calls. More to the point, our constituents who have family members and friends serving in the military, the foreign service, or simply doing business overseas, will be able to reduce their long distance bills.

When the satellite technology was in its infancy in the early 1960s, it made sense for our government and many partnering governments to get together and boost the satellite industry. Today, though, it makes sense, with so many potential competitors, to open competition within this market in an effort to speed the benefit of lower international phone bills.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Chairman, I rise in support of the effort to bring competition to this very important effort in communications and satellites. In my home State of Mississippi, WorldCom, who would have believed the number one provider of Internet services would come from a rural State like Mississippi? This is what we have been trying to do since the telecommunications bill.

If we look at our efforts since 1994 to bring competition and deregulation in market after market, whether it is agriculture or telecommunications, and this is one more important area where we can make a difference by supporting this very important piece of legislation that will bring more competition, more choice, lower prices, and technology and innovation to the marketplace.

So with great honor, I rise in support of the efforts today of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) and look forward to supporting this very important legislation.

Mr. DINGELL. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, this is a most remarkable piece of legislation. It is a wonderful solution. It is a wonderful solution seeking most actively for a problem. As a matter of fact, it is rushing wildly from point to point to find some problem that it can solve.

In the process, it is knocking over the crockery and going to create enormous damage for the people of this country, for American industry, and for American telecommunications industries. It also is going to create enormous problems for the taxpayers of this Nation by subjecting them to enormous liability for an unconstitutional taking under the Tucker Act.

The allegation is made that COMSAT is a monopoly. The simple fact of the matter is that within the last week, on April 24, as a matter of fact, the FCC declared that the COMSAT Corporation is a nondominant telecommunications carrier.

As reported in the Wall Street Journal, FCC has found that COMSAT does not wield market power in 130 countries where it offers telephone services, 54 countries where it transfers occasional use of video, and in all countries where it offers long-term video needs.

COMSAT has better than 20 major competitors. It is the major competitors of COMSAT who are around here

whining for relief. Who are these unfortunate, penniless, downtrodden competitors of COMSAT? They are PanAmSat, and this bill has been described as a PanAmSat relief bill by Wall Street.

PanAmSat just merged with Hughes and expects, if we pass this legislation, that they are going to cut a fat hog which will be paid for by the taxpayers, because we are expropriating, by the enactment of this legislation, property which belongs to COMSAT, Loral and AT&T which just merged, poor downtrodden, barefoot telecommunications giants; and Orion and Columbia, plus a wide array of others.

There is no real problem with monopoly here. Indeed, the market share of COMSAT has been declining. Another interesting thought, COMSAT is spinning off now its satellite services in which it invested its shareholders' money. Those are going into competition.

Talk about INTELSAT. INTELSAT is not a monopoly. It has a number of other competitors who are up there providing telecommunications services. This curious piece of legislation, I want to observe, is going to have virtually no consequences in terms of real increase in competition because, first of all, the competition that we are supposed to be trying to enforce is not being imposed on U.S. companies, but rather, we are trying to impose it on other companies in other countries around the world. A most remarkable set of circumstances, to assert the long reach of the arms of the United States Congress, to impose on other countries and on their industries' deregulation, a most curious practice.

But the last thing to which I want my colleagues to devote their attention is the simple fact that under the Tucker Act, the United States Congress is here engaging in an unlawful, unconstitutional, and improper and wrongful taking of assets belonging, not to the government, and not to a wrongdoer, but simply to a U.S. corporation, COMSAT, and also an interference in the contract rights of companies which are subscribers and purchasers of service from COMSAT.

This action alone will subject the United States to billions of dollars in lawsuits and probably billions of dollars in compensation that we will have to pay, because we have interfered with the contract rights, not just of COMSAT, but in the contract rights of people who do business with COMSAT. We have interfered in a way which diminishes the value of the stock of the stockholders and the assets of COMSAT. Apart from the fact that this is wrong, it is also something which is protected by the Constitution.

Some of my friends have said, well, the Congress reserved to itself the right to amend the statute. We always do that. But we cannot, under the Constitution, reserve to ourselves the right to take the property of an American corporation.

The Congress did this a while back. Not many of my colleagues remember the time that we passed the Penn Central reorganization. But because we took property from Penn Central, the American taxpayers wound up having to pay $6.5 billion.

Penn Central is no longer a railroad. They are a holding company. They are listed on the New York Stock Exchange. They are making fine earnings on the basis of investments that they made with the money by which the Congress mistakenly enriched them because they did an unlawful taking; and under the Tucker Act, they are able to sue.

Let us just look at some of the liabilities that we are absorbing. I asked the staff to inquire to find out what it is that we will be looking at in terms of additional liability for the taxpayers. I remind my colleagues, these are American taxpayers who are going to have to pay.

I would tell my colleagues that over $3 billion is the potential liability for INTELSAT's business. That includes revenue from restriction on additional services, direct access, and "fresh look," $623 million for restriction on replacement satellites carrying noncore services and a number of other items.

In addition to that, there will be over $4 billion in liabilities potential to Inmarsat from business losses there, over $157 million from restriction on additional services, $327 million from the "fresh look" provisions of the legislation, and other liabilities that this Congress is assuming on behalf of a bunch of fat cats who, I reiterate, are seeking to cut a fat hog at the expense not just of COMSAT, but at the expense of the American taxpayers.

When, in a few years, my colleagues observe that a lawsuit has been filed, get a hold of our wallet and be prepared to defend what we have done today, because we will have dissipated billions of dollars of the taxpayers' assets, and we will have imposed upon the United States an extortionate, unsatisfactory, and outrageous liability for serious constitutional misbehavior and for improper taking of property belonging to American citizens.

We are not playing games. We are not playing with foreigners. We are beating American citizens for the benefit of just a few fat cats who are doing splendidly and who, in terms of their earnings and their market share, are growing at an extraordinary rate.

Ask yourself, my colleagues, is this the way that this Congress should spend the budget surplus? Do we want to dissipate money because we have done something egregiously stupid today?

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

Mr. BLILEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has 4 minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 1 minute remaining.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. COX).

Mr. COX of California. Mr. Chairman, I am pleased to rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act, which will bring a notable and lasting achievement for the current Congress.

I would particularly like to commend the work of the gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, whose diligent efforts have made it possible for us to bring this important privatization initiative to the floor. It has significant bipartisan support.

The law that we are amending today, the Satellite Communications Act, was enacted in 1962. That was less than 5 years after the launch of Sputnik. We have to remember that, at that time, it was widely assumed that no private company could ever assume the financial burden of putting a satellite into orbit.

It should not have come as a surprise, therefore, that the 1962 Satellite Communications Act gave COMSAT and INTELSAT, the intergovernmental treaty organization which COMSAT helped create, a virtual monopoly on the world's international satellite business. It remains a profitable monopoly.

We have come a long way since 1962, and the myth that no private company could afford to get in the satellite business has long since been shattered. This is the right bill. I urge support for H.R. 1872. There is no longer any defensible reason for governments to be in the business of providing commercial satellite services.

□ 1200

Mr. DINGELL. Mr. Chairman, could the Chair tell us how much time is remaining?

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) has 1 minute remaining. The gentleman from Virginia (Mr. BLILEY) has 3 minutes remaining and the right to close.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time on the understanding the gentleman from Virginia is going to close.

I have made such good speeches, I am sure they will benefit the gentleman in his closing remarks.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time, and the first thing I would like to do is read a list here of who is supporting this bill:

AMSC, Boeing, Columbia Communications, Constellation Communications, Echostar, Final Analysis, GE Americom, ICG Satellite Services, Iridium LLC, Loral, Leo One USA, MCHI,

Motorola, Orbital Communications, Orion Network Systems, PanAmSat, Sky Station International, Stratus Mobile Networks, Teledesic, TRW Space and Electronics Group, World Space Management Corporation.

Satellite users in support of the bill: AT&T, Coalition of Service Industries, General Electric Company/NBC, MCI, Sprint, Telecommunications Industry Association, World Com.

Ethnic groups: Americans For Tax Reform, Republican National Hispanic Assembly, Armenian National Committee of America, ASPIRA, Cuban American National Council, Hispanic Council on International Relations, National Association of Latino Elected and Appointed Officials, National Council of La Raza, Polish American Congress, Puerto Rican Legal Defense Fund.

I would also like to speak about the so-called "taking." This bill does not, does not, result in an unconstitutional taking of COMSAT's property. Our bill does not take COMSAT's property in its contracts. We merely give customers the right to renegotiate. This type of economic regulation is constitutional.

The FCC has used "fresh look" four times in the past and no one claimed takings. We are not like the Penn Central Railroad. That was track and other equipment. We do not take any of their equipment.

In 1962, Congress reserved the right to regulate satellites at any time and to change the deal. COMSAT has no reasonable expectation amounting to a property right that the regulatory regime would not be altered. The Supreme Court in 50 years has not ruled on a "fresh look" case. Not in 50 years.

The share of the market for international satellite-based public switch network service, voice and facsimile, 90 percent of it, is held by COMSAT and INTELSAT. AT&T, MCI and Sprint, yes, they have cables, but they have to have a contract with COMSAT for redundancy in case the cable gets severed so they do not lose their customers.

I urge all Members to resist amendments and to support the bill as reported by voice vote out of the committee.

Mr. TOWNS. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite Competition and Privatization Act. This legislation will serve to create a competitive, free enterprise environment in both the domestic and international satellite marketplace.

As our global economy moves towards a more competitive marketplace, H.R. 1872 would also bring lower prices, increase competition, and spur technological innovation. Although I applaud the goals of H.R. 1872, I believe that certain provisions within the bill are misguided and punitive.

Specifically, H.R. 1872 contains restrictions that will limit the services that Comsat can offer using its satellite services. The current language provides that if certain rigid milestones are not met, Comsat would be forced to stop marketing certain services offered. If adopted, this provision would give rise to a "takings" claim under the Constitution, and would result in tremendous tax liabilities for consumers. As a supporter of fair and open competition, I cannot condone such punitive measures, and will support the amendment offered by the gentlelady from Maryland, Representative CONNIE MORELLA, which would permit Comsat to continue to use its property and prohibit the FCC from implementing the service restriction in a manner that would result in a government "takings".

H.R. 1872 also contains a provision that would severely limit Comsat's ability to engage in binding contractual agreements. Proponents of the measure argue that "Comsat has 'locked up' the market with long-term contracts" and, therefore, customers of Comsat should be afforded the opportunity to unilaterally breach their contracts so that they make them a "fresh look" at any available competitor in the marketplace. While I agree that every business should be given an opportunity to compete on a level playing field, I also believe that the stability of our global marketplace depends on maintaining fairly bargained contractual agreements. To date, there has not been any evidence to prove any anti-competitive contractual negotiations by any of the satellite companies. The strength of the U.S. economy, and even the world economy, depends on contractual stability. This overarching principle secures my support for the amendment offered by the gentleman from Louisiana, Representative BILLY TAUZIN (R–LA).

Let me be clear. I believe that H.R. 1872 will promote fair and open competition in the global satellite industry. Moreover, I believe H.R. 1872 will create jobs for all of our communities. At the end of the day, the most important question we must ask ourselves is what did we do to benefit the citizens of this great country.

Mr. Chairman, I urge my colleagues to vote Yes on the Morella and Tauzin amendments and Yes on the final passage of H.R. 1872.

Mr. DINGELL. Mr. Chairman, I would like to call my colleagues' attention to the extraordinary discrepancies between the black-letter law of the statutory text and the contents of the Committee Report. If any of my colleagues would like to know why the judiciary pays little attention to the legislative history when attempting to interpret the statutes we write, the Report to accompany this bill provides a magnificent example. The Committee Report on H.R. 1872 is as accurate a reflection of intentions of the Committee when it considered H.R. 1872 as was yesterday's Washington Post, although I think that the Post made better reading.

While this is unfortunate, and will contribute to the decline in the importance of committee reports as legislative history, I am particularly concerned about the way in which the Report treats the Committee's work with respect to proposed Section 641, and in particular those dealing with "Direct Access."

During the Telecommunications Subcommittee's consideration of H.R. 1872, I offered an amendment to proposed Section 641 which made significant revisions in the "Direct Access" provisions. After I offered and explained my amendment, it was accepted by the Chairman of the Committee and approved without dissent.

The provisions in the Committee Report do not reflect the plain text of my amendment, nor my intentions as its author.

LEGISLATIVE HISTORY OF SECTION 641

Section 641 is entitled "Direct Access; Treatment of COMSAT at Nondominant Carrier." This Section requires the Commission to take those actions that may be necessary to permit providers and users of telecommunications services to obtain direct access to INTELSAT and Inmarsat telecommunication services. Section 641 also requires the Commission to act on Comsat's petition to be treated as a non-dominant carrier, and to eliminate any of its regulations on the availability of direct access to INTELSAT or Inmarsat, or to any successor entities, after a pro-competitive privatization of this intergovernmental treaty organizations ("IGOs") is achieved consistent with this statute.

Subsection 641(1) addresses direct access to INTELSAT telecommunications service through either purchases of space segment capacity in accordance with subsection 641(1)(A) or through investment in INTELSAT in accordance with subsection 641(1)(B).

Specifically, Subsection 641(1)(A) provides that providers or users of tele communications service may purchase space segment capacity from INTELSAT, as of January 1, 2000, if the Commission determines that (i) INTELSAT has adopted a usage charge mechanism that ensures fair compensation to INTELSAT signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime (for example, costs for insurance, administrative, and other operations and maintenance expenditures); (ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate of a foreign signatory, is permitted to order space segment directly from INTELSAT in order to provide any service subject to the Commission's jurisdiction; and (iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority.

Subsection 641(1)(B) requires that providers or users of telecommunications service may obtain direct access to INTELSAT telecommunications services through investment in INTELSAT as of January 1, 2002, if the Commission finds that such investment will be attained under procedures that assure fair compensation to INTELSAT signatories for the market value of their investments.

Subsection 641(2) addresses direct access to Inmarsat telecommunications services through either purchases of space segment capacity in accordance with subsection 641(2)(A), or through investment in Inmarsat in accordance with subsection 641(2)(B).

Specifically, subsection 641(2)(A) provides that providers or users of telecommunications service may purchase space segment capacity from Inmarsat, as of January 1, 2000, if the Commission determines that (i) Inmarsat has adopted a usage charge mechanism that ensures fair compensation to Inmarsat signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime (for example, costs for insurance, administrative, and other operations and maintenance expenditures); (ii) the Commission's regulations ensure that no foreign signatory, nor

its affiliate, is permitted to order space segment directly from Inmarsat in order to provide any service subject to the Commission's jurisdiction; and (iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority.

Subsection 641(2)(B) requires that providers or users of telecommunications service may obtain direct access to Inmarsat telecommunications services through investment in Inmarsat as of January 1, 2001, if the Commission finds that such investment will be attained under procedures that assure fair compensation to Inmarsat signatories for the market value of their investments.

Subsection 641(3) requires the Commission to act on Comsat's petition to be treated as a non-dominant carrier for the purposes of the Commission's regulations according to the provisions of section 10 of the Communications Act of 1934 (47 U.S.C. §160).

Subsection 641(4) requires the Commission to eliminate any regulation on the availability of direct access to INTELSAT or Inmarsat or to any successor entities after a pro-competitive privatization of those intergovernmental satellite organizations is achieved.

CRITIQUE OF LEGISLATIVE HISTORY

The language contained in the Committee Report is replete with instances in which the report is substantially more punitive to Comsat than the text of the legislation adopted by the Committee. As discussed below, the portion of the Report describing Section 641 is filled with inconsistencies and descriptions of provisions that neither appear in the text nor were discussed by the Committee. Not only are there numerous internal inconsistencies, but when the description in the Report is compared with the actual text of H.R. 1872, the factual misrepresentations become apparent.

The first sentence of this portion of the Report says that: "New sections 641(1) and 641(2) require the Commission to permit competitors to offer services through direct access to the INTELSAT and Inmarsat systems." The legislation requires the Commission to permit providers and users of telecommunications services to obtain telecommunications services directly for INTELSAT and Inmarsat.

The Report also states that if "the Inmarsat Operating Agreement is terminated, former signatories, including COMSAT for the provision of services in the United States, should not be the exclusive distributors of Inmarsat services." The Report continues: "the U.S. Administration and the Commission should, in the public interest, ensure that any Inmarsat privatization plan includes direct access until full privatization is fully implemented." Neither of these provisions are contained in the text of the bill, nor were they discussed when my amendment was accepted.

In its description of sections 641(1)(A)(i) through (iii), the Report again misrepresents the requirements of the statute. First, the Report states that these sections "describe the circumstances which the Commission should determine are present when the Commission implements direct access through purchases of space segment capacity from INTELSAT." First, the provisions of the bill do not require the Commission to implement direct access. Rather, the bill requires the Commission to ensure that it is possible for carriers and users to obtain direct access. Additionally, this statement suggests that the Commission's analysis will be conducted simultaneously with the occurrence of direct access, when in fact the plain language of the legislative text requires that the Commission determine if the conditions set forth in sections 641(1)(A)(i) through (iii) are met prior to permitting direct access.

The Report's description of the conditions for ensuring direct access is possible is also inaccurate. In particular, sections 641(1)(A)(ii) and (2)(A)(ii) require that no foreign signatory or its affiliate are permitted to provide INTELSAT or Inmarsat services from the United States. The text of the Report incorrectly limits this condition to foreign signatories. Moreover, the Report claims that sections 641(1)(A)(iii) and (2)(A)(iii) require the Commission to ensure that carriers pass savings through to end-users. The statute, however, requires only that the Commission have "in place a means to ensure" that carriers will be required to pass savings through to end-users.

The description of sections 641(1)(A)(i) and (2)(A)(i) also diverges from the text of the bill. In particular, the text of H.R. 1872 does not contain the limitations on "unavoided costs" that the Report suggests. For example, the Report provides that "the only costs covered by this section are those unavoidable signatory expenses in excess of all payments to signatories from the IGOs." This limitation is not present in the legislative text. Rather, the text of H.R. 1872 only refers to "support costs that such signatories would not otherwise be able to avoid . . ." Moreover, the Report states that: "If such costs are in excess of or not covered by the IUC or by other payments to INTELSAT or Inmarsat, then this section shall be satisfied if INTELSAT or Inmarsat has in place or create a mechanism or other methodology or legal regime which permits (or does not preclude) parties . . . to adopt means to ensure that such unavoidable, excess signatory costs are covered by payments from other direct access providers or otherwise covered or fairly compensated." Again, there is no such provision in the statute.

The Report contains a requirement that the Commission implement new subsections 641(1)(a)(ii) and 2(a)(ii) in a manner consistent with U.S. obligations in World Trade Organization ("WTO") and to consult with Executive Branch agencies in this regard. Again, the text of the statute contains no such provision. Moreover, direct access itself appears to be inconsistent with the United States' Schedule of Specific Commitments agreed to in the WTO Basic Telecom Agreement.

In particular, the U.S. Schedule of Specific Commitments limits, *inter alia*, direct access to INTELSAT and Inmarsat to Comsat, the U.S. Signatory to those IGOs, for the provision of basic telecommunications services. As the Commission noted in implementing the WTO, this Schedule makes no distinction with respect to international service and U.S. domestic services. Rather, it maintains access to INTELSAT and Inmarsat satellites through Comsat for the provision of any service, domestic or international. Thus, any action by the U.S. Government permitting carriers to have direct access to space segment from INTELSAT will conflict with this Schedule of Specific Commitments because it will permit carriers to circumvent Comsat.

In describing subsections 641(1)(A)(iii) and (2)(A)(iii), the Report states that: "The Committee does not intend for the Commission to implement any form of carrier regulation or reporting requirement that would reinstate or be tantamount to dominant carrier regulation on carriers found to be non-dominant before the Committee's consideration of H.R. 1872 . . . [however] [t]he foregoing sentence does not apply to COMSAT . . ." This provision penalizes Comsat by name even in those markets where the Commission has determined it is non-dominant. Needless to say, there is no basis for the provision contained in the Committee Report, either in the text of the legislation or in the Committee debate when the provision was adopted.

In its description of subsections 641(1)(A)(iii) and (2)(A)(iii), the Report states that the requirement that the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of direct access authority will be met "if the Commission finds that competition resulting from direct access will result in savings to consumers over what they might pay in the absence of direct access." Thus, if one were to rely on the description in the Report one would assume that the Commission has an affirmative obligation to undertake an analysis of whether competition will result in savings to consumers. By contrast, the text of the legislation requires only that the Commission have a means in place to ensure that cost savings are passed on to end users. Once again, the text of the bill contradicts the description of that provision in the Report.

Finally, the Report describes subsection 641(4) as requiring "the Commission to sunset any regulation providing for direct access to INTELSAT or Inmarsat when these organizations fully privatize . . . "It is unclear how the Commission would "sunset" a regulation. Actually, the statute requires the Commission to "eliminate" any regulation on the availability of direct access. Moreover, the Report limits the scope of this provision to INTELSAT and Inmarsat and neglects the fact that "any successor entities" of INTELSAT and Inmarsat are included in the statute.

The legislative history contained in this Committee Report constitutes a monument to those who would dismiss committee reports as legitimate expressions of Congressional intent. This legislative history is fraught with factual inconsistencies and would lead even the staunchest defender of statutory construction to cringe. It is a blatant attempt to rewrite a bill through its legislative history. As a member of Congress, I am, quite frankly, offended by this, although I cannot say that I am surprised by it. We should aspire to have as our legacy statutes of major importance that speak to the public in plain and ordinary terms. As an integral part of those statutes, the legislative history should enhance, not attempt to redefine, the fruits of our efforts. As the Supreme Court has held: "In ascertaining the meaning of a statute, a court cannot, in the manner of Sherlock Holmes, pursue the theory of the dog that did not bark." See *Harrison* v. *PPG Industries, Inc.*, 446 U.S. 578, 592, 64 L.Ed. 2d 525, 100 S. Ct. 1889 (1980).

Ms. DELAURO. Mr. Chairman, I rise in support of the Communications Satellite Competition and Privatization Act.

This bill will privatize the two Intergovernmental Satellite Organizations, Intelsat and Inmarsat—opening the international satellite market to the wide range of American firms eager to compete in it. American ideas and ingenuity have made this country great. It is our responsibility, as members of Congress, to encourage these values, not stifle them.

Passage of this bill also will represent a victory for average American consumers. Privatization of this market will save consumers as much as $2.9 billion over the next decade. At a time when American men and women work hard every day to find new ways to make ends meet for their families, it is essential that we help them in their search.

We need a modern satellite market that provides America and the world with high-quality products at affordable prices. We need to continue to encourage the hard work and innovation that has made this nation a world leader. Support the Communications Satellite Competition and Privatization Act.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998. In 1962, the U.S. became part of the international satellite communications organizations. These monopoly organizations are a relic of an earlier time when there were only a few network television stations and rotary phones were the norm. The telecommunications industry changes rapidly each year and we are over a generation away from 1962.

It was not too long ago that cellular phones were cutting edge technology and the Internet was used exclusively by university professors. Now millions of Americans are enjoying these telecommunications services as markets are deregulated in this country. H.R. 1872 continues this trend which will potentially create thousands of new jobs, save U.S. consumers billions of dollars, and create new markets for U.S. businesses.

I commend the work of Commerce Committee Chairman TOM BLILEY and Congressman MARKEY for their work in crafting this important bi-partisan bill.

Mr. ADERHOLT. Mr. Chairman, I rise today in support of H.R. 1872 which would open the international satellite market to full competition and encourage the long-overdue privatization of Intelsat and Inmarsat.

H.R. 1872 is a good bill, and it has been endorsed by a wide variety of concerned citizen groups, including Americans for Tax Reform, which notes that "this bill will lower the costs of satellite communications to government—money that would otherwise come out of the pockets of hard-working Americans."

And if saving the American taxpayer money is not in and of itself sufficient reason to vote for H.R. 1872, Americans for Tax Reform also correctly notes that we should be trying to expand the reach of the free market, not letting United Nations-like organizations and state-owned foreign telephone companies keep U.S. firms from gaining access to foreign markets. H.R. 1872 would solve these problems and get the government out of the way so that America's telecommunications and aerospace industries can provide new and innovative services to consumers around the world.

I urge my colleagues to join me in supporting H.R. 1872.

Mr. DAVIS of Florida. Mr. Chairman, as a co-sponsor of this important legislation, I rise today in strong support for H.R. 1872, the Communications Satellite Competition and Privatization Act. In short, this bill will reform our 1960's era satellite telecommunications policy and promote competition in satellite services and technology.

Over thirty-five years ago, when Congress passed the 1962 Communications Satellite Act, it was believed that only governments could finance and manage a global satellite system. Today, the rapid advances and growth within the telecommunications industry far surpass anything we could have imagined in the early 1960's. Today, there is no longer a need for a privileged international organization to provide satellite communications services in competition with private commercial services. Passage of this legislation will break up the last lawful telecommunications monopoly in the United States and bring greater competition, innovation, and efficiency to the international satellite industry.

This bill embodies the belief that open competitive markets will result in greater benefits to the industry, the economy, and most importantly, the consumers. While over 85 other nations have allowed direct access to INTELSAT and Inmarsat services, the United States market remains monopolized by COMSAT. The result is that U.S. satellite consumers pay inflated prices. A recent study showed that the privatization called for under H.R. 1872 would save consumers $2.9 billion over the next ten years. Furthermore, this legislation will save U.S., taxpayers $700 million by cutting the costs of government communications.

Mr. Chairman, the bill before us today will finally bring satellite communications policy into the modern era. It recognizes that the current system distorts the marketplace and takes reasonable and modest steps to ensure competition bringing lower prices and higher quality services for satellite users. This bill is good for consumers, good for businesses and workers, and good for the United States taxpayer. I urge all of my colleagues to support H.R. 1872.

Mr. HASTERT. Mr. Chairman, we all know satellite technology is moving at light-year speed, and that our manufacturers are the best in the world. However, the 30-year-old law under which they operate needs to be updated for the twenty-first century.

Private companies like Motorola, PanAmSat and Teledesic are planning ventures that would have been unthinkable three decades ago. Consider Motorola for a moment—Its network of more than 60 satellites, known as Iridium, will soon begin providing voice and paging services. Further down the road is its proposal to complete a network of more than 70 satellites, known as Celestri, in order to provide high-speed data and video services worldwide.

Mr. Chairman, I believe the effect of this legislation will be a boon to consumers as they benefit from the increased efficiency and lower costs that competition brings. Although IntelSat and InMarSat have served us well, we all know it's time for these organizations to join other cold war relics on the scrap heap of history.

Mr. LUCAS of Oklahoma. Mr. Chairman, I rise today in support of H.R. 1872, the Communications Satellite Competition and Privatization Act of 1998.

When Congress set up a satellite monopoly with the Satellite Act of 1962, few people could imagine a day when you could warm up dinner in 60 seconds with a microwave or put a plastic card into an automatic teller machine to get money 24 hours a day. And Congress did not think that private industry could afford to put satellites up into space. With that 1960's logic, Congress created a satellite monopoly to ensure the United States would not be left behind.

Clearly, my friends, times have changed since then, and now we have many private businesses that are ready to invest in the satellite industry. In short, the private sector is ready for competition in this industry. But the major roadblock to competition is an outdated Federal law that needs to be brought into the 1990's and bridge us to the next Millennium. That's why I'm supporting H.R. 1872, a bill that breaks down decades-old barriers to competition by eliminating the bottleneck that has kept satellite rates artificially high. It's time for government to get out of the way and let competition bring its benefits of lower rates and enhanced technology to the satellite industry.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

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

H.R. 1872

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 "Communications Satellite Competition and Privatization Act of 1998".

SEC. 2. PURPOSE.

It is the purpose of this Act to promote a fully competitive global market for satellite communication services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat.

SEC. 3. REVISION OF COMMUNICATIONS SATELLITE ACT OF 1962.

The Communications Satellite Act of 1962 (47 U.S.C. 101) is amended by adding at the end the following new title:

"TITLE VI—COMMUNICATIONS COMPETITION AND PRIVATIZATION

"Subtitle A—Actions To Ensure Procompetitive Privatization

"SEC. 601. FEDERAL COMMUNICATIONS COMMISSION LICENSING.

"(a) LICENSING FOR SEPARATED ENTITIES.—

"(1) COMPETITION TEST.—The Commission may not issue a license or construction permit to any separated entity, or renew or permit the assignment or use of any such license or permit, or authorize the use by any entity subject to United States jurisdiction of any space segment owned, leased, or operated by any separated entity, unless the Commission determines that such issuance, renewal, assignment, or use will not harm competition in the telecommunications market of the United States. If the Commission does not make such a determination, it shall deny or revoke authority to use space segment owned, leased, or operated by the separated entity to provide services to, from, or within the United States.

"(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621 and 623, and shall not make such a determination unless the Commission determines that the privatization of any separated entity is consistent with such criteria.

"(b) LICENSING FOR INTELSAT, INMARSAT, AND SUCCESSOR ENTITIES.—

"(1) COMPETITION TEST.—The Commission shall substantially limit, deny, or revoke the authority for any entity subject to United States jurisdiction to use space segment owned, leased, or operated by INTELSAT or Inmarsat or any successor entities to provide non-core services to, from, or within the United States, unless the Commission determines—

"(A) after January 1, 2002, in the case of INTELSAT and its successor entities, that INTELSAT and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States; or

"(B) after January 1, 2001, in the case of Inmarsat and its successor entities, that Inmarsat and any successor entities have been privatized in a manner that will not harm competition in the telecommunications markets of the United States.

"(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621, 622, and 624, and shall not make such a determination unless the Commission determines that such privatization is consistent with such criteria.

"(3) CLARIFICATION: COMPETITIVE SAFEGUARDS.—In making its licensing decisions under this subsection, the Commission shall consider whether users of non-core services provided by INTELSAT or Inmarsat or successor or separated entities are able to obtain non-core services from providers offering services other than through INTELSAT or Inmarsat or successor or separated entities, at competitive rates, terms, or conditions. Such consideration shall also include whether such licensing decisions would require users to replace equipment at substantial costs prior to the termination of its design life. In making its licensing decisions, the Commission shall also consider whether competitive alternatives in individual markets do not exist because they have been foreclosed due to anticompetitive actions undertaken by or resulting from the INTELSAT or Inmarsat systems. Such licensing decisions shall be made in a manner which facilitates achieving the purposes and goals in this title and shall be subject to notice and comment.

"(c) ADDITIONAL CONSIDERATIONS IN DETERMINATIONS.—In making its determinations and licensing decisions under subsections (a) and (b), the Commission shall take into consideration the United States obligations and commitments for satellite services under the Fourth Protocol to the General Agreement on Trade in Services.

"(d) INDEPENDENT FACILITIES COMPETITION.—Nothing in this section shall be construed as precluding COMSAT from investing in or owning satellites or other facilities independent from INTELSAT and Inmarsat, and successor or separated entities, or from providing services through reselling capacity over the facilities of satellite systems independent from INTELSAT and Inmarsat, and successor or separated entities. This subsection shall not be construed as restricting the types of contracts which can be executed or services which may be provided by COMSAT over the independent satellites or facilities described in this subsection.

"SEC. 602. INTELSAT OR INMARSAT ORBITAL LOCATIONS.

"(a) REQUIRED ACTIONS.—Unless, in a proceeding under section 601(b), the Commission determines that INTELSAT or Inmarsat have been privatized in a manner that will not harm competition, then—

"(1) the President shall oppose, and the Commission shall not assist, any registration for new orbital locations for INTELSAT or Inmarsat—

"(A) with respect to INTELSAT, after January 1, 2002, and

"(B) with respect to Inmarsat, after January 1, 2001, and

"(2) the President and Commission shall, consistent with the deadlines in paragraph (1), take all other necessary measures to preclude procurement, registration, development, or use of new satellites which would provide non-core services.

"(b) EXCEPTION.—

"(1) REPLACEMENT AND PREVIOUSLY CONTRACTED SATELLITES.—Subsection (a) shall not apply to—

"(A) orbital locations for replacement satellites (as described in section 622(2)(B)), and

"(B) orbital locations for satellites that are contracted for as of March 25, 1998, if such satellites do not provide additional services.

"(2) LIMITATION ON EXCEPTION.—Paragraph (1) is available only with respect to satellites designed to provide services solely in the C and Ku, for INTELSAT, and L, for Inmarsat, bands.

"SEC. 603. ADDITIONAL SERVICES AUTHORIZED.

"(a) SERVICES AUTHORIZED DURING CONTINUED PROGRESS.—

"(1) CONTINUED AUTHORIZATION.—The Commission may issue an authorization, license, or permit to, or renew the license or permit of, any provider of services using INTELSAT or Inmarsat space segment, or authorize the use of such space segment, for additional services (including additional applications of existing services) or additional areas of business, subject to the requirements of this section.

"(2) ADDITIONAL SERVICES PERMITTED UNDER NEW CONTRACTS UNLESS PROGRESS FAILS.—If the Commission makes a finding under subsection (b) that conditions required by such subsection have not been attained, the Commission may not, pursuant to paragraph (1), permit such additional services to be provided directly or indirectly under new contracts for the use of INTELSAT or Inmarsat space segment, unless and until the Commission subsequently makes a finding under such subsection that such conditions have been attained.

"(3) PREVENTION OF EVASION.—The Commission shall, by rule, prescribe means reasonably designed to prevent evasions of the limitations contained in paragraph (2) by customers who did not use specific additional services as of the date of the Commission's most recent finding under subsection (b) that the conditions of such subsection have not been obtained.

"(b) REQUIREMENTS FOR ANNUAL FINDINGS.—

"(1) GENERAL REQUIREMENTS.—The findings required under this subsection shall be made, after notice and comment, on or before January 1 of 1999, 2000, 2001, and 2002. The Commission shall find that the conditions required by this subsection have been attained only if the Commission finds that—

"(A) substantial and material progress has been made during the preceding period at a rate and manner that is probable to result in achieving pro-competitive privatizations in accordance with the requirements of this title; and

"(B) neither INTELSAT nor Inmarsat are hindering competitors' or potential competitors' access to the satellite services marketplace.

"(2) FIRST FINDING.—In making the finding required to be made on or before January 1, 1999, the Commission shall not find that the conditions required by this subsection have been attained unless the Commission finds that—

"(A) COMSAT has submitted to the INTELSAT Board of Governors a resolution calling for the pro-competitive privatization of INTELSAT in accordance with the requirements of this title; and

"(B) the United States has submitted such resolution at the first INTELSAT Assembly of Parties meeting that takes place after such date of enactment.

"(3) SECOND FINDING.—In making the finding required to be made on or before January 1, 2000, the Commission shall not find that the conditions required by this subsection have been attained unless the INTELSAT Assembly of Parties has created a working party to consider and make recommendations for the pro-competitive privatization of INTELSAT consistent with such resolution.

"(4) THIRD FINDING.—In making the finding required to be made on or before January 1, 2001, the Commission shall not find that the conditions required by this subsection have been attained unless the INTELSAT Assembly of Parties has approved a recommendation for the pro-competitive privatization of INTELSAT in accordance with the requirements of this title.

"(5) FOURTH FINDING.—In making the finding required to be made on or before January 1, 2002, the Commission shall not find that the conditions required by this subsection have been attained unless the pro-competitive privatization of INTELSAT in accordance with the requirements of this title has been achieved by such date.

"(6) CRITERIA FOR EVALUATION OF HINDERING ACCESS.—The Commission shall not make a determination under paragraph (1)(B) unless the Commission determines that INTELSAT and Inmarsat are not in any way impairing, delaying, or denying access to national markets or orbital locations.

"(c) EXCEPTION FOR SERVICES UNDER EXISTING CONTRACTS IF PROGRESS NOT MADE.—This section shall not preclude INTELSAT or Inmarsat or any signatory thereof from continuing to provide additional services under an agreement with any third party entered into prior to any finding under subsection (b) that the conditions of such subsection have not been attained.

"Subtitle B—Federal Communications Commission Licensing Criteria: Privatization Criteria

"SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COMPETITIVE PRIVATIZATION OF INTELSAT AND INMARSAT.

"The President and the Commission shall secure a pro-competitive privatization of INTELSAT and Inmarsat that meets the criteria set forth in this section and sections 622 through 624. In securing such privatizations, the following criteria shall be applied as licensing criteria for purposes of subtitle A:

"(1) DATES FOR PRIVATIZATION.—Privatization shall be obtained in accordance with the criteria of this title of—

"(A) INTELSAT as soon as practicable, but no later than January 1, 2002, and

"(B) Inmarsat as soon as practicable, but no later than January 1, 2001.

"(2) INDEPENDENCE.—The successor entities and separated entities of INTELSAT and Inmarsat resulting from the privatization obtained pursuant to paragraph (1) shall—

"(A) be entities that are national corporations; and

"(B) have ownership and management that is independent of—

"(i) any signatories or former signatories that control access to national telecommunications markets; and

"(ii) any intergovernmental organization remaining after the privatization.

"(3) TERMINATION OF PRIVILEGES AND IMMUNITIES.—The preferential treatment of INTELSAT and Inmarsat shall not be extended to any successor entity or separated entity of INTELSAT

or Inmarsat. Such preferential treatment includes—

"(A) privileged or immune treatment by national governments;

"(B) privileges or immunities or other competitive advantages of the type accorded INTELSAT and Inmarsat and their signatories through the terms and operation of the INTELSAT Agreement and the associated Headquarters Agreement and the Inmarsat Convention; and

"(C) preferential access to orbital locations, including any access to orbital locations that is not subject to the legal or regulatory processes of a national government that applies due diligence requirements intended to prevent the warehousing of orbital locations.

"(4) PREVENTION OF EXPANSION DURING TRANSITION.—During the transition period prior to full privatization, INTELSAT and Inmarsat shall be precluded from expanding into additional services (including additional applications of existing services) or additional areas of business.

"(5) CONVERSION TO STOCK CORPORATIONS.—Any successor entity or separated entity created out of INTELSAT or Inmarsat shall be a national corporation established through the execution of an initial public offering as follows:

"(A) Any successor entities and separated entities shall be incorporated as private corporations subject to the laws of the nation in which incorporated.

"(B) An initial public offering of securities of any successor entity or separated entity shall be conducted no later than—

"(i) January 1, 2001, for the successor entities of INTELSAT; and

"(ii) January 1, 2000, for the successor entities of Inmarsat.

"(C) The shares of any successor entities and separated entities shall be listed for trading on one or more major stock exchanges with transparent and effective securities regulation.

"(D) A majority of the board of directors of any successor entity or separated entity shall not be subject to selection or appointment by, or otherwise serve as representatives of—

"(i) any signatory or former signatory that controls access to national telecommunications markets; or

"(ii) any intergovernmental organization remaining after the privatization.

"(E) Any transactions or other relationships between or among any successor entity, separated entity, INTELSAT, or Inmarsat shall be conducted on an arm's length basis.

"(6) REGULATORY TREATMENT.—Any successor entity or separated entity shall apply through the appropriate national licensing authorities for international frequency assignments and associated orbital registrations for all satellites.

"(7) COMPETITION POLICIES IN DOMICILIARY COUNTRY.—Any successor entity or separated entity shall be incorporated and headquartered in a nation or nations that—

"(A) have effective laws and regulations that secure competition in telecommunications services;

"(B) are signatories of the World Trade Organization Basic Telecommunications Services Agreement; and

"(C) have a schedule of commitments in such Agreement that includes non-discriminatory market access to their satellite markets.

"(8) RETURN OF UNUSED ORBITAL LOCATIONS.—INTELSAT, Inmarsat, and any successor entities and separated entities shall not be permitted to warehouse any orbital location that—

"(A) as of March 25, 1998, did not contain a satellite that was providing commercial services, or, subsequent to such date, ceased to contain a satellite providing commercial services; or

"(B) as of March 25, 1998, was not designated in INTELSAT or Inmarsat operational plans for satellites for which construction contracts had been executed.

Any such orbital location of INTELSAT or Inmarsat and of any successor entities and separated entities shall be returned to the International Telecommunication Union for reallocation.

"(9) APPRAISAL OF ASSETS.—Before any transfer of assets by INTELSAT or Inmarsat to any successor entity or separated entity, such assets shall be independently audited for purposes of appraisal, at both book and fair market value.

"(10) LIMITATION ON INVESTMENT.—Notwithstanding the provisions of this title, COMSAT shall not be authorized by the Commission to invest in a satellite known as K-TV, unless Congress authorizes such investment.

"SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.

"In securing the privatizations required by section 621, the following additional criteria with respect to INTELSAT privatization shall be applied as licensing criteria for purposes of subtitle A:

"(1) NUMBER OF COMPETITORS.—The number of competitors in the markets served by INTELSAT, including the number of competitors created out of INTELSAT, shall be sufficient to create a fully competitive market.

"(2) PREVENTION OF EXPANSION DURING TRANSITION.—

"(A) IN GENERAL.—Pending privatization in accordance with the criteria in this title, INTELSAT shall not expand by receiving additional orbital locations, placing new satellites in existing locations, or procuring new or additional satellites except as permitted by subparagraph (B), and the United States shall oppose such expansion—

"(i) in INTELSAT, including at the Assembly of Parties,

"(ii) in the International Telecommunication Union,

"(iii) through United States instructions to COMSAT,

"(iv) in the Commission, through declining to facilitate the registration of additional orbital locations or the provision of additional services (including additional applications of existing services) or additional areas of business; and

"(v) in other appropriate fora.

"(B) EXCEPTION FOR CERTAIN REPLACEMENT SATELLITES.—The limitations in subparagraph (A) shall not apply to any replacement satellites if—

"(i) such replacement satellite is used solely to provide public-switched network voice telephony or occasional-use television services, or both;

"(ii) such replacement satellite is procured pursuant to a construction contract that was executed on or before March 25, 1998; and

"(iii) construction of such replacement satellite commences on or before the final date for INTELSAT privatization set forth in section 621(1)(A).

"(3) TECHNICAL COORDINATION AMONG SIGNATORIES.—Technical coordination shall not be used to impair competition or competitors, and coordination under Article XIV(d) of the INTELSAT Agreement shall be eliminated.

"SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED ENTITIES.

"In securing the privatizations required by section 621, the following additional criteria with respect to any INTELSAT separated entity shall be applied as licensing criteria for purposes of subtitle A:

"(1) DATE FOR PUBLIC OFFERING.—Within one year after any decision to create any separated entity, a public offering of the securities of such entity shall be conducted.

"(2) PRIVILEGES AND IMMUNITIES.—The privileges and immunities of INTELSAT and its signatories shall be waived with respect to any transactions with any separated entity, and any limitations on private causes of action that would otherwise generally be permitted against any separated entity shall be eliminated.

"(3) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of any separated entity shall be individuals who are officers, directors, or employees of INTELSAT.

"(4) SPECTRUM ASSIGNMENTS.—After the initial transfer which may accompany the creation of a separated entity, the portions of the electromagnetic spectrum assigned as of the date of enactment of this title to INTELSAT shall not be transferred between INTELSAT and any separated entity.

"(5) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between a privatized INTELSAT or any successor entity and any separated entity shall be prohibited until 15 years after the completion of INTELSAT privatization under this title.

"SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.

"In securing the privatizations required by section 621, the following additional criteria with respect to Inmarsat privatization shall be applied as licensing criteria for purposes of subtitle A:

"(1) MULTIPLE SIGNATORIES AND DIRECT ACCESS.—Multiple signatories and direct access to Inmarsat shall be permitted.

"(2) PREVENTION OF EXPANSION DURING TRANSITION.—Pending privatization in accordance with the criteria in this title, Inmarsat should not expand by receiving additional orbital locations, placing new satellites in existing locations, or procuring new or additional satellites, except for specified replacement satellites for which construction contracts have been executed as of March 25, 1998, and the United States shall oppose such expansion—

"(A) in Inmarsat, including at the Council and Assembly of Parties,

"(B) in the International Telecommunication Union,

"(C) through United States instructions to COMSAT,

"(D) in the Commission, through declining to facilitate the registration of additional orbital locations or the provision of additional services (including additional applications of existing services) or additional areas of business, and

"(E) in other appropriate fora.

This paragraph shall not be construed as limiting the maintenance, assistance or improvement of the GMDSS.

"(3) NUMBER OF COMPETITORS.—The number of competitors in the markets served by Inmarsat, including the number of competitors created out of Inmarsat, shall be sufficient to create a fully competitive market.

"(4) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between Inmarsat or any successor entity or separated entity and ICO shall be prohibited until 15 years after the completion of Inmarsat privatization under this title.

"(5) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of Inmarsat or any successor entity or separated entity shall be individuals who are officers, directors, or employees of ICO.

"(6) SPECTRUM ASSIGNMENTS.—The portions of the electromagnetic spectrum assigned as of the date of enactment of this title to Inmarsat—

"(A) shall, after January 1, 2006, or the date on which the life of the current generation of Inmarsat satellites ends, whichever is later, be made available for assignment to all systems (including the privatized Inmarsat) on a non-discriminatory basis and in a manner in which continued availability of the GMDSS is provided; and

"(B) shall not be transferred between Inmarsat and ICO.

"(7) PRESERVATION OF THE GMDSS.—The United States shall seek to preserve space segment capacity of the GMDSS.

"SEC. 625. ENCOURAGING MARKET ACCESS AND PRIVATIZATION.

"(a) NTIA DETERMINATION.—

"(1) DETERMINATION REQUIRED.—Within 180 days after the date of enactment of this section, the Secretary of Commerce shall, through the Assistant Secretary for Communications and Information, transmit to the Commission—

"(A) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that impose barriers to market access for private satellite systems; and

"(B) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that are not supporting pro-competitive privatization of INTELSAT and Inmarsat.

"(2) CONSULTATION.—The Secretary's determinations under paragraph (1) shall be made in consultation with the Federal Communications Commission, the Secretary of State, and the United States Trade Representative, and shall take into account the totality of a country's actions in all relevant fora, including the Assemblies of Parties of INTELSAT and Inmarsat.

"(b) IMPOSITION OF COST-BASED SETTLEMENT RATE.—Notwithstanding—

"(1) any higher settlement rate that an overseas carrier charges any United States carrier to originate or terminate international message telephone services, and

"(2) any transition period that would otherwise apply,

the Commission may by rule prohibit United States carriers from paying an amount in excess of a cost-based settlement rate to overseas carriers in countries listed by the Commission pursuant to subsection (a).

"(c) SETTLEMENTS POLICY.—The Commission shall, in exercising its authority to establish settlements rates for United States international common carriers, seek to advance United States policy in favor of cost-based settlements in all relevant fora on international telecommunications policy, including in meetings with parties and signatories of INTELSAT and Inmarsat.

"Subtitle C—Deregulation and Other Statutory Changes

"SEC. 641. DIRECT ACCESS; TREATMENT OF COMSAT AS NONDOMINANT CARRIER.

"The Commission shall take such actions as may be necessary—

"(1) to permit providers or users of telecommunications services to obtain direct access to INTELSAT telecommunications services—

"(A) through purchases of space segment capacity from INTELSAT as of January 1, 2000, if the Commission determines that—

"(i) INTELSAT has adopted a usage charge mechanism that ensures fair compensation to INTELSAT signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime, such as insurance, administrative, and other operations and maintenance expenditures;

"(ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate thereof, shall be permitted to order space segment directly from INTELSAT in order to provide any service subject to the Commission's jurisdiction;

"(iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority;

"(B) through investment in INTELSAT as of January 1, 2002, if the Commission determines that such investment will be attained under procedures that assure fair compensation to INTELSAT signatories for the market value of their investments;

"(2) to permit providers or users of telecommunications services to obtain direct access to Inmarsat telecommunications services—

"(A) through purchases of space segment capacity from Inmarsat as of January 1, 2000, if the Commission determines that—

"(i) Inmarsat has adopted a usage charge mechanism that ensures fair compensation to Inmarsat signatories for support costs that such signatories would not otherwise be able to avoid under a direct access regime, such as insurance, administrative, and other operations and maintenance expenditures;

"(ii) the Commission's regulations ensure that no foreign signatory, nor any affiliate thereof, shall be permitted to order space segment directly from Inmarsat in order to provide any service subject to the Commission's jurisdiction;

"(iii) the Commission has in place a means to ensure that carriers will be required to pass through to end-users savings that result from the exercise of such authority; and

"(B) through investment in Inmarsat as of January 1, 2001, if the Commission determines that such investment will be attained under procedures that assure fair compensation to Inmarsat signatories for the market value of their investments;

"(3) to act on COMSAT's petition to be treated as a nondominant carrier for the purposes of the Commission's regulations according to the provisions of section 10 of the Communications Act of 1934 (47 U.S.C. 160); and

"(4) to eliminate any regulation on the availability of direct access to INTELSAT or Inmarsat or to any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622 and 624.

"SEC. 642. TERMINATION OF MONOPOLY STATUS.

"(a) RENEGOTIATION OF MONOPOLY CONTRACTS PERMITTED.—The Commission shall, beginning January 1, 2000, permit users or providers of telecommunications services that previously entered into contracts or are under a tariff commitment with COMSAT to have an opportunity, at their discretion, for a reasonable period of time, to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination charges in any such contracts with COMSAT.

"(b) COMMISSION AUTHORITY TO ORDER RENEGOTIATION.—Nothing in this title shall be construed to limit the authority of the Commission to permit users or providers of telecommunications services that previously entered into contracts or are under a tariff commitment with COMSAT to have an opportunity, at their discretion, to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination charges in any such contracts with COMSAT.

"(c) PROVISIONS CONTRARY TO PUBLIC POLICY VOID.—Whenever the Commission permits users or providers of telecommunications services to renegotiate contracts or commitments as described in this section, the Commission may provide that any provision of any contract with COMSAT that restricts the ability of such users or providers to modify the existing contracts or enter into new contracts with any other space segment provider (including but not limited to any term or volume commitments or early termination charges) or places such users or providers at a disadvantage in comparison to other users or providers that entered into contracts with COMSAT or other space segment providers shall be null, void, and unenforceable.

"SEC. 643. SIGNATORY ROLE.

"(a) LIMITATIONS ON SIGNATORIES.—

"(1) NATIONAL SECURITY LIMITATIONS.—The Federal Communications Commission, after a public interest determination, in consultation with the Executive Branch, may restrict foreign ownership of a United States signatory if the Commission determines that not to do so would constitute a threat to national security.

"(2) NO SIGNATORIES REQUIRED.—The United States Government shall not require signatories to represent the United States in INTELSAT or Inmarsat or in any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622 and 624.

"(b) CLARIFICATION OF PRIVILEGES AND IMMUNITIES OF COMSAT.—

"(1) GENERALLY NOT IMMUNIZED.—Notwithstanding any other law or executive agreement, COMSAT shall not be entitled to any privileges or immunities under the laws of the United States or any State on the basis of its status as a signatory of INTELSAT or Inmarsat.

"(2) LIMITED IMMUNITY.—COMSAT and any other company functioning as United States signatory to INTELSAT or Inmarsat shall not be liable for action taken by it in carrying out the specific, written instruction of the United States issued in connection with its relationships and activities with foreign governments, international entities, and the intergovernmental satellite organizations.

"(3) PROVISIONS PROSPECTIVE.—Paragraph (1) shall not apply with respect to liability for any action taken by COMSAT before the date of enactment of the Communications Satellite Competition and Privatization Act of 1998.

"(c) PARITY OF TREATMENT.—Notwithstanding any other law or executive agreement, the Commission shall have the authority to impose similar regulatory fees on the United States signatory which it imposes on other entities providing similar services.

"SEC. 644. ELIMINATION OF PROCUREMENT PREFERENCES.

"Nothing in this title or the Communications Act of 1934 shall be construed to authorize or require any preference, in Federal Government procurement of telecommunications services, for the satellite space segment provided by INTELSAT, Inmarsat, or any successor entity or separated entity.

"SEC. 645. USE OF ITU TECHNICAL COORDINATION.

"The Commission and United States satellite companies shall utilize the International Telecommunication Union procedures for technical coordination with INTELSAT and its successor entities and separated entities, rather than INTELSAT procedures.

"SEC. 646. TERMINATION OF COMMUNICATIONS SATELLITE ACT OF 1962 PROVISIONS.

"Effective on the dates specified, the following provisions of this Act shall cease to be effective:

"(1) Date of enactment of this title: Sections 101 and 102; paragraphs (1), (5) and (6) of section 201(a); section 301; section 303; section 502; and paragraphs (2) and (4) of section 504(a).

"(2) On the effective date of the Commission's order that establishes direct access to INTELSAT space segment: Paragraphs (1), (3) through (5), and (8) through (10) of section 201(c); and section 304.

"(3) On the effective date of the Commission's order that establishes direct access to Inmarsat space segment: Subsections (a) through (d) of section 503.

"(4) On the effective date of a Commission order determining under section 601(b)(2) that Inmarsat privatization is consistent with criteria in sections 621 and 624: Section 504(b).

"(5) On the effective date of a Commission order determining under section 601(b)(2) that INTELSAT privatization is consistent with criteria in sections 621 and 622: Paragraphs (2) and (4) of section 201(a); section 201(c)(2); subsection (a) of section 403; and section 404.

"SEC. 647. REPORTS TO THE CONGRESS.

"(a) ANNUAL REPORTS.—The President and the Commission shall report to the Congress

within 90 calendar days of the enactment of this title, and not less than annually thereafter, on the progress made to achieve the objectives and carry out the purposes and provisions of this title. Such reports shall be made available immediately to the public.

"(b) CONTENTS OF REPORTS.—The reports submitted pursuant to subsection (a) shall include the following:

"(1) Progress with respect to each objective since the most recent preceding report.

"(2) Views of the Parties with respect to privatization.

"(3) Views of industry and consumers on privatization.

"SEC. 648. CONSULTATION WITH CONGRESS.

"The President's designees and the Commission shall consult with the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate prior to each meeting of the INTELSAT or Inmarsat Assembly of Parties, the INTELSAT Board of Governors, the Inmarsat Council, or appropriate working group meetings.

"SEC. 649. SATELLITE AUCTIONS.

"Notwithstanding any other provision of law, the Commission shall not have the authority to assign by competitive bidding orbital locations or spectrum used for the provision of international or global satellite communications services. The President shall oppose in the International Telecommunication Union and in other bilateral and multilateral fora any assignment by competitive bidding of orbital locations or spectrum used for the provision of such services.

"Subtitle D—Negotiations To Pursue Privatization

"SEC. 661. METHODS TO PURSUE PRIVATIZATION.

"The President shall secure the pro-competitive privatizations required by this title in a manner that meets the criteria in subtitle B.

"Subtitle E—Definitions

"SEC. 681. DEFINITIONS.

"(a) IN GENERAL.—As used in this title:

"(1) INTELSAT.—The term 'INTELSAT' means the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT).

"(2) INMARSAT.—The term 'Inmarsat' means the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Organization.

"(3) SIGNATORIES.—The term 'signatories'—

"(A) in the case of INTELSAT, or INTELSAT successors or separated entities, means a Party, or the telecommunications entity designated by a Party, that has signed the Operating Agreement and for which such Agreement has entered into force or to which such Agreement has been provisionally applied; and

"(B) in the case of Inmarsat, or Inmarsat successors or separated entities, means either a Party to, or an entity that has been designated by a Party to sign, the Operating Agreement.

"(4) PARTY.—The term 'Party'—

"(A) in the case of INTELSAT, means a nation for which the INTELSAT agreement has entered into force or been provisionally applied; and

"(B) in the case of Inmarsat, means a nation for which the Inmarsat convention has entered into force.

"(5) COMMISSION.—The term 'Commission' means the Federal Communications Commission.

"(6) INTERNATIONAL TELECOMMUNICATION UNION.—The term 'International Telecommunication Union' means the intergovernmental organization that is a specialized agency of the United Nations in which member countries cooperate for the development of telecommunications, including adoption of international regulations governing terrestrial and space uses of the frequency spectrum as well as use of the geostationary satellite orbit.

"(7) SUCCESSOR ENTITY.—The term 'successor entity'—

"(A) means any privatized entity created from the privatization of INTELSAT or Inmarsat or from the assets of INTELSAT or Inmarsat; but

"(B) does not include any entity that is a separated entity.

"(8) SEPARATED ENTITY.—The term 'separated entity' means a privatized entity to whom a portion of the assets owned by INTELSAT or Inmarsat are transferred prior to full privatization of INTELSAT or Inmarsat, including in particular the entity whose structure was under discussion by INTELSAT as of March 25, 1998, but excluding ICO.

"(9) ORBITAL LOCATION.—The term 'orbital location' means the location for placement of a satellite on the geostationary orbital arc as defined in the International Telecommunication Union Radio Regulations.

"(10) SPACE SEGMENT.—The term 'space segment' means the satellites, and the tracking, telemetry, command, control, monitoring and related facilities and equipment used to support the operation of satellites owned or leased by INTELSAT, Inmarsat, or a separated entity or successor entity.

"(11) NON-CORE.—The term 'non-core services' means, with respect to INTELSAT provision, services other than public-switched network voice telephony and occasional-use television, and with respect to Inmarsat provision, services other than global maritime distress and safety services or other existing maritime or aeronautical services for which there are not alternative providers.

"(12) ADDITIONAL SERVICES.—The term 'additional services' means Internet services, high-speed data, interactive services, non-maritime or non-aeronautical mobile services, Direct to Home (DTH) or Direct Broadcast Satellite (DBS) video services, or Ka-band services.

"(13) INTELSAT AGREEMENT.—The term 'INTELSAT Agreement' means the Agreement Relating to the International Telecommunications Satellite Organization ('INTELSAT'), including all its annexes (TIAS 7532, 23 UST 3813).

"(14) HEADQUARTERS AGREEMENT.—The term 'Headquarters Agreement' means the International Telecommunication Satellite Organization Headquarters Agreement (November 24, 1976) (TIAS 8542, 28 UST 2248).

"(15) OPERATING AGREEMENT.—The term 'Operating Agreement' means—

"(A) in the case of INTELSAT, the agreement, including its annex but excluding all titles of articles, opened for signature at Washington on August 20, 1971, by Governments or telecommunications entities designated by Governments in accordance with the provisions of the Agreement, and

"(B) in the case of Inmarsat, the Operating Agreement on the International Maritime Satellite Organization, including its annexes.

"(16) INMARSAT CONVENTION.—The term 'Inmarsat Convention' means the Convention on the International Maritime Satellite Organization (Inmarsat) (TIAS 9605, 31 UST 1).

"(17) NATIONAL CORPORATION.—The term 'national corporation' means a corporation the ownership of which is held through publicly traded securities, and that is incorporated under, and subject to, the laws of a national, state, or territorial government.

"(18) COMSAT.—The term 'COMSAT' means the corporation established pursuant to title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.)

"(19) ICO.—The term 'ICO' means the company known, as of the date of enactment of this title, as ICO Global Communications, Inc.

"(20) REPLACEMENT SATELLITES.—The term 'replacement satellite' means a satellite that replaces a satellite that fails prior to the end of the duration of contracts for services provided over such satellite and that takes the place of a satellite designated for the provision of public-switched network and occasional-use television services under contracts executed prior to March 25, 1998 (but not including K-TV or similar satellites). A satellite is only considered a replacement satellite to the extent such contracts are equal to or less than the design life of the satellite.

"(21) GMDSS.—The term 'global maritime distress and safety services' or 'GMDSS' means the automated ship-to-shore distress alerting system which uses satellite and advanced terrestrial systems for international distress communications and promoting maritime safety in general. The GMDSS permits the worldwide alerting of vessels, coordinated search and rescue operations, and dissemination of maritime safety information.

"(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this title that are defined in section 3 of the Communications Act of 1934 have the meanings provided in such section.".

The CHAIRMAN. No amendment to the committee amendment is in order unless printed in the CONGRESSIONAL RECORD. Those amendments shall be considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a demand for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for the voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose, of course, would be to engage the chairman of the full committee, my good friend from Richmond, Virginia, in a colloquy.

I would like to personally thank the gentleman from Virginia (Mr. BLILEY) for his work in moving this very important bill forward and his leadership on this issue over the past number of years.

We can all agree that government should not be providing commercial services, especially in advanced telecommunications. We can likewise agree that the intergovernmental satellite organizations should be privatized in a manner that creates a level field for all competitors.

Now, given that all these organizations are intergovernmental organizations, the United States must inevitably engage with our global partners as we move forward to privatization. We operate in a global interconnected

world today, with a complex web of economic undertakings binding us to countries around the world. We all know that.

For instance, the United States and approximately 100 other countries that participate in INTELSAT and Inmarsat are members of the World Trade Organization, the WTO. We, therefore, have obligations to these countries, as they do to us, pursuant to agreements in the WTO. With respect to satellite services, we have an obligation to our WTO partners under the Fourth Protocol of the General Agreement on Trade and Services, which governs basic telecommunications services.

Now, I would like to ask the chairman, is the bill intended to be consistent with U.S. obligations under WTO on the provisions of the basic telecommunications services?

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

Mr. DAN SCHAEFER of Colorado. I yield to the gentleman from Virginia.

Mr. BLILEY. The gentleman is correct. My bill is intended to be consistent with the WTO.

As the gentleman may know, I was a strong supporter of the WTO basic telecommunications agreement, which will open the world's markets to other telecommunications companies. For the price of improved access to the global market for our telecom companies, the U.S. Government has to permit foreign investment in this market. Given the competitiveness of our telecom companies, that is a good bargain.

I support playing by the rules and I believe this bill is consistent with our obligations. But nothing in the WTO agreement says we cannot protect competition in our market. We are permitted to do so under the WTO services agreement. If necessary, we will vigorously fight for our beliefs and rights within the WTO and protect the integrity of U.S. competition policy.

So my bill uses an entry test of not causing competitive harm. As long as the IGO's privatized entities meet the criteria and will not cause competitive harm, and their entry is otherwise in the public interest, the FCC may authorize their use. A competition entry test in the public interest is consistent with our WTO obligations.

Mr. DAN SCHAEFER of Colorado. Reclaiming my time, Mr. Chairman, I appreciate the gentleman's remarks. As the gentleman knows, I am very interested in seeing that the commission, when making its determination whether to license or authorize the use of privatized entities, act in a manner consistent with U.S. obligations under the WTO agreement on basic telecommunications.

Now, I would ask the gentleman one final question. Is this legislation intended to ensure that the FCC not only take notice but, as much as practicable, act in a manner consistent with the WTO agreement on basic telecommunication services?

Mr. BLILEY. If the gentleman will continue to yield, we intend by this legislation that the FCC will implement this satellite reform legislation in a manner consistent with our obligations under the WTO basic telecommunications agreement.

However, the bill does not mandate that, because foreign parties may differ with the FCC's reading of the public interest or whether the future structure of an IGO spin-off or successor entity will harm competition in this market. If it did mandate that the FCC act consistently with our WTO obligations, then that privatized entity or, more precisely its government, could go off to Geneva and petition the WTO for a panel against the United States due to the FCC finding.

While I support the principles of the WTO and believe the U.S. should live up to its obligations, I do not wish to invite WTO panels. I do not want our bill to become an avenue for a recovering monopolist, to use a phrase of my cosponsor, to slow down reform by causing trouble for the United States in Geneva. Rather, the bill relies on a perfectly acceptable "measure," to use WTO parlance, a competition test, as the entry standard that should guide the FCC in making decisions on the section 601.

Mr. Chairman, I thank the gentleman for addressing this important issue.

Mr. DAN SCHAEFER of Colorado. Mr. Chairman, I thank the chairman of the full committee.

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

I simply want to commend the gentleman from Colorado for what it is he has done. This treaty violates the INTELSAT agreement and the basic telecom agreement of the World Trade Organization.

It also would have the practical effect of insisting on specific results and would impose sanctions on INTELSAT in violation of that treaty if those results are not achieved. The sanctions would violate that treaty further by expelling INTELSAT from the U.S. market in violation of that treaty agreement.

In addition to that, it would violate the Inmarsat agreement by preventing COMSAT and Inmarsat from providing certain specifically required, economically viable service to U.S. consumers. It also punishes COMSAT in the event foreign participants do not meet the privatization criteria and time schedule, something which is, again, in violation of that treaty.

Now, in addition to that, COMSAT would be barred from providing many services to American and foreign participants under the treaties requiring those actions, to which this Nation is a signatory. It also imposes requirements for spin-offs which do not, I believe, comply with the requirements of the treaty.

It also violates the WTO basic telecom agreements' open market requirements because, in point of fact, it tends to close rather than to open markets and reduce rather than increase competition. It would, in fact, imperil the entire future of the WTO agreement entered into with 68 other countries.

The comments of the gentleman from Colorado were appropriate and should be considered as my colleagues prepare to vote against this outrageous bill.

AMENDMENT NO. 6 OFFERED BY MRS. MORELLA

Mrs. MORELLA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. Morella:

Page 6, after line 8, insert the following new subsection:

"(e) TAKINGS PROHIBITED.—In implementing the provisions of this section, and sections 621, 622, and 624 of this Act, the Commission shall not restrict the activities of COMSAT in a manner which would create the liability for the United States under the Fifth Amendment to the Constitution.

Page 11, after line 11, insert the following new subsection:

"(d) TAKINGS PROHIBITED.—In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

Mrs. MORELLA. Mr. Chairman, I had submitted two amendments for H.R. 1872, and so I want to clarify for my colleagues that I am only offering one of those amendments, the one that deals only with the question of takings under the fifth amendment.

My amendment addresses a fundamental problem with H.R. 1872. As reported by the Committee on Commerce, the bill contains service restrictions which, when implemented, will constitute an unconstitutional taking of COMSAT's property, and so my amendment just very simply cures that problem.

I know that the gentleman from Virginia, my good friend and chairman of the committee, contends these restrictions do not constitute a taking, but I must respectfully disagree. Quite frankly, if it does not constitute a taking, then this amendment is completely in order. Why not put it into the bill?

Mr. Chairman, the United States induced private investors to fund COMSAT by offering the company an opportunity to earn a profit by helping to serve the communications needs of the United States and other countries. That is a quote.

The United States also instructed COMSAT to sign the INTELSAT and Inmarsat operating agreements, which are binding on the parties. COMSAT's

investments were made in reliance on existing law.

The United States cannot take COMSAT's property by deliberately destroying its value without paying compensation. This is particularly true where, as here, the investments were compelled by Federal law. And in accordance with that law and with government approval, COMSAT has acquired an investment interest in satellites, orbital positions and spectrum, as well as other costs associated with the establishment, operation, and maintenance of a global satellite system.

□ 1215

And yet this Federal law statute would prohibit COMSAT from using or earning a return on those investments. Putting a company in such a position would be a compensable taking, and the liability for this taking is massive.

COMSAT has invested billions of dollars in its space-based assets and millions more on the ground. Unless my amendment is adopted, the U.S. Treasury and, ultimately, the taxpayers will have to foot the bill.

These are not opinions that I cooked up myself. They are shared by many, including some of our colleagues on the Committee on Commerce. They are also shared by Nancie Marzulla. She is the president of Defenders of Property Rights. In a recent column in the Washington Times, Ms. Marzulla addressed the takings aspect of H.R. 1872. She said, "Some in Congress and elsewhere seem to have forgotten the Constitution's fifth amendment prohibition against uncompensated takings." She notes correctly that "The Government would have to compensate COMSAT for taking the company's property in violation of the fifth amendment's guarantee against uncompensated takings. The U.S. is liable for just compensation not just when it physically seizes real or personal property, but also, as Justice Holmes said in 1922, 'If regulation goes too far, it will be recognized as a taking.'"

I also want to point out the Washington Legal Foundation that the chairman of the committee admires so, and many of us do, agrees that these provisions are an unconstitutional taking of COMSAT's property. In an analysis prepared at my request, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT.

Mr. Chairman, I include the following for the RECORD:

WASHINGTON LEGAL FOUNDATION,
2009 MASSACHUSETTS AVENUE, N.W.,
Washington, DC, April 29, 1998.

Hon. CONSTANCE A. MORELLA,
U.S. House of Representatives, 2228 Rayburn House Office Bldg., Washington, DC.

Re H.R. 1872—The Communications Satellite Competition and Privatization Act of 1998

DEAR REPRESENTATIVE MORELLA: In response to your written request for counsel, the Washington Legal Foundation (WLF) has undertaken a legal analysis of H.R. 1872, "The Communications Satellite Competition and Privatization Act of 1998." In particular, we have considered whether H.R. 1872 in its present form would constitute a "taking" by the federal government (subject to just compensation under the Fifth Amendment to the United States Constitution) or a breach of compact between the United States and COMSAT Corporation.

After careful consideration of H.R. 1872, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT. WLF's conclusion should not be construed as endorsement or opposition to H.R. 1872. WLF is a nonprofit group organized under 26 U.S.C. §501(c)(3) and does not engage in any lobbying activity.

Background. The current wave of telecommunications reform comes from a shift in how the economics of communications networks are generally understood. Whereas it was once assumed that these networks were natural monopolies, experts in the field now believe that these facilities can be provided (and are best provided) by multiple competitors. Nowhere is this shift more clear than in satellite communications. In the 1960s and 1970s, it was universally believed that the establishing and maintaining a network of satellites was so complicated and expensive that only a global consortium could do it. Thus, the United States spearheaded the formation of two treaty-based international satellite organizations (ISOs), INTELSAT and Inmarsat, to carry out this mission.

Since that time, private companies such as PanAmSat, Loral, Motorola, and Teledesic have launched (or made plans to launch) their own satellite networks. The success of these companies has demonstrated that government involvement is no longer needed to ensure the provision of satellite services. Accordingly, the United States has begun the delicate process of negotiating with other countries—most of whom do not fully share the U.S.'s faith in the marketplace—to privatize the ISOs. These efforts have already borne fruit; INTELSAT has agreed to spin off six of its satellites to a private company, and Inmarsat has agreed to privatize all but its public-safety services.

Several members of Congress, believing that privatization cannot be achieved unless mandated by the U.S., have introduced legislation intended to force the ISOs to privatize. H.R. 1872 would close the U.S. market to INTELSAT and Inmarsat, their privatized spin-offs and successors, and all U.S. entities that use their facilities, unless the ISOs meet the bill's rigid criteria, and do so by dates certain. H.R. 1872 has been criticized by some for hamstringing the government's ability to negotiate with other countries, and for adopting—allegedly for the purpose of enhancing competition—a protectionist strategy that benefits certain U.S. satellite companies by excluding their most likely international rivals from the market. What has received less attention is that H.R. 1872 would effect the largest confiscation of private property in recent times, exposing the U.S. to billions of dollars in claims for compensation.

The problem is this: The United States actually does not hold any investment in the ISOs. Private investors have committed massive amounts of capital to fund the ISOs, and they have done so at the behest of the U.S. government, in furtherance of declared national policy. When Congress passed the Communications Satellite Act of 1962, 47 U.S.C. §§701 *et seq.*, it determined that "United States participation in the global system shall be in the form of a private corporation, subject to appropriate regulation." 47 U.S.C. §701(c). Congress therefore authorized the creation of a new company, COMSAT, to be the sole operating entity in INTELSAT. In 1978, Congress also made COMSAT the sole U.S. participant in Inmarsat.

By statute, COMSAT is a "corporation for profit" and not "an agency or establishment of the United States government." 47 U.S.C. §731. It has never been funded or otherwise subsidized by the United States. Rather, Congress authorized and expected COMSAT to raise capital by selling shares of voting capital stock "in a manner to encourage the widest possible distribution to the American public," 47 U.S.C. §634(a), and by selling its securities to private investors. See 47 U.S.C. §§721(c)(8), 734(c). COMSAT's stock trades on the New York Stock Exchange, and its current market capitalization is over $2 billion.

The INTELSAT and Inmarsat Operating Agreements (which COMSAT was directed by the U.S. government to sign) obligate COMSAT to meet periodic capital calls. At the end of 1997, COMSAT owned roughly 18% of INTELSAT, with a carrying value of approximately $402 million, and roughly 23% of Inmarsat, with a carrying value of approximately $223 million. COMSAT is pledged to invest another $332 million in INTELSAT. In addition, it has invested hundreds of millions in shareholder capital outside the ISOs in order to provide INTELSAT and Inmarsat services to the U.S. public.

H.R. 1872 could substantially impair, or perhaps destroy, that investment. The bill sets conditions for privatization that the State Department concedes are too onerous for other countries to accept. The entity that INTELSAT recently agreed to privatize would not qualify, nor would the privatized Inmarsat. Some have argued that the bar has intentionally been set too high, at the request of U.S. companies seeking protection for competition, so that the market-closing sanctions that accompany a failure to meet the criteria will be triggered.

During the transition to privatization, H.R. 1872 would effectively bar the ISOs from deploying satellites to new orbital locations or replacing obsolete satellites at the end of their lives. Moreover, H.R. 1872 declares that if "substantial and material progress" is not made, year by year, toward meeting the bill's conditions, COMSAT will be barred from providing high-speed data, Internet, and land mobile service—even though it relies on such services now for significant portions of its revenue. In addition, COMSAT would be frozen in time while the rest of the marketplace moved forward; it could not provide additional services, or additional applications of existing services.

If privatization is not achieved in exactly the time and manner specified, the bill would limit COMSAT to the provision of so-

called "core" services, defined as force telphony and occasional use services for INTELSAT, and emergency services (now provided at no charge) for Inmarsat. But the refuge of these "core" services may well be illusory, because changes in technology are causing these markets to disappear. Voice traffic, for example, is migrating rapidly from satellites to fiber-optic cables, and a voice-only provider likely would see its market slip away in a world of converging voice and data services.

Moreover, H.R. 1872 imposes further sanctions that could cripple COMSAT *whether or not the ISOs privatize*. Most significantly, the bill would give *every one* of COMSAT's customers the unilateral right to abrogate its contracts with the company. Such sweeping Congressional abrogation of the private contract rights of a single company—without any judicial determination of wrongdoing—may be unprecedented in U.S. history .

Constitutional Analysis. WLF has concluded that, if adopted, H.R. 1872 would effect a substantial compensable taking of private property. The bill would impair COMSAT's substantial investments in and for INTELSAT and Inmarsat, thus imposing on COMSAT's shareholders virtually the entire cost of a congressional policy change. The Takings Clause of the Fifth Amendment is "designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole." Armstrong v. United States, 364 U.S. 40, 49 (1960). Congress may not induce a company to invest its private capital, and then turn around and declare that policy changes have made the investment unnecessary, without compensating that company for the assets dedicated to public use.

WLF has concluded that if H.R. 1872 passes, COMSAT may have legitimate claims for compensation for its taken investments. Government's regulation of the uses to which private property may be put can "take" that property, just as if the government had seized the property. See Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 1017–18 (1992); Webb's Fabulous Pharmacies, Inc. v. Beckwith, 449 U.S. 155, 163–64 (1980). The Supreme Court has articulated three factors that determine whether usage regulation goes so far as to constitute a taking: "the economic impact of the regulation on the claimant," the "extent to which the regulation has interfered with distance investment-backed expectations," and "the character of the governmental action." Penn Central Transp. Co. v. City of New York, 438 U.S. 104, 124 (1978).

H.R. 1872 bears all the indicia of a regulation that, in Justice Holmes's words, goes "too far." Pennsylvania Coal v. Mahon, 260 U.S. 393, 415 (1922). Based on WLF's understanding of the situation, the bill would have a devastating economic impact on COMSAT, immediately stranding hundreds of millions of dollars of investments made to provide (and useful solely for providing) banned services, and ultimately relegating the company to providing an ever-shrinking core of services with ever-more-obsolete technologies. Moreover, H.R. 1872 appears to interfere with COMSAT's investment-backed expectations. If COMSAT had not legitimately expected that it would be allowed to pursue a profit on its INTELSAT and Inmarsat investments, it would have been irrational for COMSAT to have made them, and for its shareholders to have contributed capital to the company.

Nor does H.R. 1872 merely "adjust the benefits and burdens of economic life to promote the common good," with only an incidental effect on COMSAT. Connolly v. Pension Benefit Guaranty Corp., 475 U.S. 211, 225 (1986). It is true that COMSAT's actions have always been subject to regulation, cf. id. at 226–227. But H.R. 1872 goes well beyond the ordinary regulatory adjustment that such an actor must expect. It rejects the most basic premise of COMSAT's existence: that a global "commercial communications satellite system," built "in conjunction and cooperation with other countries," will best "serve the communications needs of the United States and other countries." 47 U.S.C. §701(a). In light of this language, the backers of H.R. 1872 cannot reasonably maintain that COMSAT should have expected that the U.S. would seek to exclude INTELSAT and Inmarsat from the market altogether. See Ruckleshaus v. Monsanto Co., 467 U.S. 986, 1010–11 (1984) (where company submits trade secrets to EPA upon statutory assurance that EPA will not disclose them, later amendment of statute to permit disclosure works a taking); United Nuclear Corp. v. United States, 912 F.2d 1432 (Fed. Cir. 1990) (where mining company invested $5 million to explore for uranium on tribal lands in reliance on Interior Department approval, company could not be expected to foresee Interior's decision six years later to allow tribe to cancel the land claims, and decision worked a compensable taking).

Finally, H.R. 1872 does not "substantially advance" its stated regulatory goal: securing the privatization of INTELSAT and Inmarsat. See Lucas, 505 U.S. at 1016. To the contrary, by setting the bar as high as it does, the bill guarantees that privatization will fail and that COMSAT will be expelled from the U.S. market. Congress may legitimately decide that it no longer wants COMSAT to serve its historic role. But if it does so, it is required by the Fifth Amendment to compensate COMSAT's shareholders for the capital they have put in public service at the government's request.

Please let us know if you seek further legal counsel from WLF on this issue.

Sincerely,

DANIEL J. POPEO,
General Counsel.

[From the Washington Times, Apr. 27, 1998]

DEREGULATION OR PLAIN OLD THEFT?

(By Nancie G. Marzulla)

More than 30 years ago, hundreds of Americans invested in an idea: that communications satellites could benefit their nation and the world. The result was COMSAT, a Maryland-based shareholder-owned company that successfully launched the United States to the apex of the satellite industry.

Today, however, if a bill now being considered in Congress passes, these investments will be in jeopardy. Some in Congress and elsewhere seem to have forgotten the Constitution's Fifth Amendment prohibition against uncompensated "takings." In their quest for deregulation, they've proposed federal legislation that could end up costing the U.S. Treasury hundreds of millions, if not billions, of dollars to cover COMSAT's takings claims.

In the process, these "takers" would be sending a clear message to current and future investors: Risk your money, but don't expect the government to play by the rules if your investment pays off. With that kind of federal attitude, what sane investor would risk their hard-earned capital on today's fledgling companies that take huge financial and technological risks at the request of the government, as COMSAT did in the 1960s.

In the Communications Satellite Act of 1962, Congress commissioned COMSAT to "establish in conjunction and in cooperation with other countries, as expeditiously and practicable, a commercial communications satellite system." At the time, this task was recognized to be a risky financial and technological undertaking. Congress's mandate led to the creation of the International Telecommunications Satellite Organization (INTELSAT), an international consortium that now includes some 140-member countries. A similar international organization, the International Mobile Satellite Organization, or "Inmarsat" was formed in 1978.

As the U.S. representative to INTELSAT and Inmarsat, COMSAT has been bound by those organizations' operating agreements which (among other things) obligate COMSAT to meet all of INTELSAT and Inmarsat's capital investment calls. Moreover, COMSAT must seek FCC approval for every investment.

In exchange for living within these constraints, COMSAT was afforded an opportunity to earn a reasonable return on its investments. It also was given exclusive franchise in selling services using INTELSAT and Inmarsat satellites for communications to and from the United States. Access has never been a problem for customers: these services are energetically offered to all at non-discriminatory rates.

During the 1960s and 1970s, INTELSAT and Inmarsat satellites were the only "birds" in the sky American telephone companies and television networks needing satellite services had to purchase them from COMSAT. But since the early 1980s other companies have been allowed to launch competing communications satellite systems. These systems have been extremely successful.

In addition to the growth of new, rival service providers, new technologies also have created more competition for satellites. For example, higher capacity fiber-optic undersea cable has become the favored mode of transmitting phone calls internationally. Today, 117 countries are directly connected to the United States by fiber-optic cable.

As a result of these technological and marketplace development, COMSAT now has only 21 percent of the market for international voice communications and about 42 percent of the market for international video transmission.

There are still those who inexplicably view COMSAT, a relatively small player in the communications marketplace, as a monopoly despite the fact that numerous suppliers serve the market today. Believers in the "monopoly power" of COMSAT have introduced a bill in Congress that would, among other things:

Authorize customers to abrogate their existing contracts with COMSAT;

Require the immediate surrender of allocated orbital slots (essentially a parking place for a satellite in outer space) not in actual commercial use, despite the millions of dollars COMSAT, INTELSAT, and Inmarsat have invested in satellites intended for those slots;

Terminate existing services that COMSAT is providing to customers, as well as restricting the company's participation in new services (such as Internet access, high-speed data and interactive services) thus depriving Americans of advanced computer and video technologies.

Maybe some in Congress believe that this is the definition of progressive, fair and pro-competition legislation, but COMSAT and its shareholders aren't laughing about a bill

that would knock this competitor out of the market in the name of competition.

This bill would breach COMSAT's implicit but enforceable regulatory compact with the federal government. As the Supreme Court recently said when enforcing promises made by bank regulators to savings and loans institutions, Congress is free to change its policies and, as a result, to break a pledge to a private party. But if Congress does so, it must "insure the promise against loss arising from the promised condition's nonoccurrence."

The government also would have to compensate COMSAT for taking the company's property in violation of the Fifth Amendment's guarantee against uncompensated takings. The U.S. is liable for just compensation not just when it physically seizes real or personal property but also, as Justice Holmes said in 1922, "if regulation goes too far it will be recognized as taking."

Clearly, it is going "too far" to require COMSAT and its investors to bear the burden of a congressional decision to reverse course and exclude treaty organizations and their signatories from almost the entire field of satellite communications. If Congress were to order this, it would have to compensate companies for investments they made at the government's behest and approval—investments made specifically to solidify the U.S. as the satellite industry leader.

The provision that would invalidate existing contracts is even a more obvious and aggressive taking of private property. It is well recognized that contract rights are property rights, protected by the Constitution. Congress can no more abrogate existing contracts than it can take away tangible personal property without just compensation. Yet this bill would void current and future agreements negotiated between COMSAT and other parties.

Of course, deregulation must be pursued with vigor. At the same time, promises governments made to private companies, and on which investors based their investment, must be kept. Deregulation cannot be an excuse for the uncompensated confiscation of private property.

Mr. Chairman, the service restrictions of H.R. 1872 are not only unconstitutional, they are anticompetitive and they are anticonsumer. They will remove a competitor from the marketplace, and therefore, they will then deny consumers, including the U.S. Government, an alternative service provider. COMSAT's competitors will have succeeded in ejecting a major player from the communications marketplace. They are the only beneficiaries of these provisions.

So, Mr. Chairman, we also put satellite reform, but we must proceed in a way that is fair to the customers, fair to COMSAT, and above all else consistent with the Constitution. We must avoid enacting a law that is found to be unconstitutional and that exposes the Treasury to a multibillion-dollar liability for damages.

Mr. Chairman, I ask my colleagues to support this amendment.

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment of my good friend, the gentlewoman from Maryland (Mrs. MORELLA).

Before I begin, let me share with my colleagues an interesting bit of history. The phrase "red herring" comes from the practice of dragging a smoked and, thus, red herring across the path of a track of dogs trying to follow a scent. The idea was to use the scent to distract them from that prey.

In this case, the taking issue is being used in an attempt to distract Members from the real issue, which is that without incentives that could cost the intergovernmental satellite organizations money, they will never privatize in a procompetitive manner.

The amendment is an attempt to tie down the FCC through litigation. Currently, if COMSAT has a takings claim, it can sue the FCC. Just like anyone else, if there were a taking, they could go to court. Why do they want this amendment? To tie the bill in knots through litigation, that is why.

The amendment offered in committee by the gentleman from Maryland (Mr. WYNN), the colleague of the gentlewoman, was offered which also sought to cause fundamental problems for the bill. The gentleman from Maryland (Mr. WYNN) failed by a vote of 37-to-8. This one dresses the knife up in takings clothing possibly in the hope that many of my conservative colleagues who care about takings will join the gentlewoman in attacking our carefully crafted legislation.

I have to tell my colleagues that I do not think the amendment of the gentlewoman from Maryland (Mrs. MORELLA) is designed to fix the takings problem. It is designed to protect her constituent COMSAT. And it does that well. It says that the FCC shall not restrict the activities of COMSAT in a manner which would create liability for the U.S. under the fifth amendment, which would mean COMSAT could go to the courts as soon as the FCC issued a decision and tie the bill up for years. COMSAT's whole strategy is to delay reform. This would play right into their hands.

What the amendment does not take into account is that we already have a Constitution with the fifth amendment that protects against takings. There is also a remedy. Under current law, if they think there is a taking, they can sue, but under the same laws applicable to any other company.

Once again, the intergovernmental satellite organizations and the U.S. affiliate, COMSAT, want to continue the special advantages they have always had.

Now, I thought I would take a moment to address the takings issue itself. The committee has thoroughly analyzed that there are no takings. CRS has looked at the issue. They found that "a review of the bill's text reviews no provisions likely to cause constitutional takings." The committee's analysis, which quotes at length from the CRS, is available in the committee report.

I would now like to read a letter dated May 5 from the Washington Legal Foundation to me.

Dear Chairman Bliley, this is in response to your letter requesting a clarification of WLF's views regarding the Communications Satellite Competition and Privatization Act in light of concerns that WLF's views had been mischaracterized.

I want to make it very clear that the Washington Legal foundation does not in the any way oppose your bill or in any manner support amendments to your bill. WLF does not engage or partner in any lobbying activity whatsoever. In fact, some members of the WLF's own advisory boards disagree with the WLF's legal analysis of the takings clause in connection with this legislation.

Unfortunately, when we sent our analysis to Members who requested it, we did not anticipate that it would be used as the basis for any legislative tactics or strategy which would oppose your satellite reform bill. We take no legislative position whatsoever. We are grateful for your leadership on free enterprise issues and appreciate the opportunity to clarify this matter for you. Sincerely, Daniel J. Popeo, General Counsel.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, if in fact there is no takings problem, then what is wrong with the amendment?

Mr. BLILEY. Reclaiming my time, the gentlewoman must not have been listening. They have the right under the Constitution now by the fifth amendment. What this does is it puts a chill on the FCC. As soon as they do anything, they will can run into court and tie them up for years. That is what the strategy of COMSAT is, delay, delay, delay, hold their monopoly, get those 68 percent profits as long as they possibly can; and if we are forced to privatize, set it up in such a way that all we have done is change the name, but we still have the monopoly.

Mr. WYNN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank my colleague, the gentlewoman from Montgomery County, Maryland, (Mrs. MORELLA) for her leadership on this issue. It is a very important issue to one of our own companies, COMSAT.

The question that is posed by this amendment is simply this: deregulation or plain old theft? This the question was posed by Nancie Marzulla, president of the Defenders of Property Rights, in an op-ed piece in the April 27, 1998, edition of the Washington Times.

In her piece they state clearly that the sponsors in the quest for deregulation have proposed Federal legislation that could end up costing American citizens hundreds of millions, if not billions, of dollars to cover COMSAT's takings claims. That is right, takings claims.

As reported by the Committee on Commerce, this legislation contains restrictions that will limit the services

that COMSAT can offer using its satellite assets. The restrictions take effect if rigid milestones are not met for privatization. The critical point, however, is that these milestones are not milestones within the control of COMSAT; they are milestones beyond their control, in fact, in the control of international organizations.

COMSAT is urging and helping move toward privatization, but they cannot control the pace of privatization. Nonetheless, they would be subject to unfair restrictions if our imposed milestones are not met. And I do not believe that this is fair.

I know we have constitutional scholars in this body, and I call upon them today. This is an unconstitutional taking. COMSAT is a private, investor-owned company. COMSAT's contract rights are property; and under the fifth amendment of the Constitution, the government simply cannot take this property, which is what this legislation does, without paying for it; and I fully expect that COMSAT will be filing claims on this issue.

Should this occur, the money the U.S. taxpayers will have to pay as a result of litigation will far exceed anything we are contemplating now in the context of our tobacco concerns. The amendment being offered by my colleague today will significantly reduce our liability and that of our constituents by eliminating the takings provisions for the bill's restrictions on COMSAT. The amendment does the right thing by allowing COMSAT to continue to use its property, and I urge our Members to support this amendment.

Now, I applaud the purpose of the chairman with this legislation, and I think the intent is laudable and he has worked very hard. However, the underlying theory of this legislation is quite flawed. The sponsors of this bill would have us believe that COMSAT is a huge, untenable monopoly. This is simply not true.

In fact, there are more than 20 current competitors to COMSAT, with more than $14 billion in investments and $40 billion in stock value. If this is not competition, I do not know what is. I do not think we can ask for much more. But let us consider further.

In 1998, COMSAT controlled 70 percent of the international voice traffic. Today they have only a 21 percent share. Significantly, COMSAT's market share has declined. In 1993, COMSAT controlled 80 percent of the video market; today it controls 42 percent. Clearly, competition is emerging under our present structure. We do not need this piece of legislation to promote competition.

But finally and most telling, on April 28 of this year, the FCC declared that COMSAT is nondominant in most of its market, thus authoritatively eliminating the argument that we have to get rid of COMSAT or punish COMSAT because it is an egregious monopoly.

Despite these facts, however, the sponsors of the legislation, so intent on privatizing this industry, would subject our constituents to potentially billions of dollars in liability as a result of litigation.

I think Ms. Marzulla put it best in her op-ed piece when she said, "Deregulation must be pursued with vigor. At the same time, promises governments made to private companies and on which investors based their investment, must be kept. Deregulation cannot be an excuse for the uncompensated confiscation of private property." And that is what we are debating here today.

I urge my colleagues to support and adopt the Morella amendment. I believe that this is a proper move and an appropriate step to making this bill something that we can support.

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

Mr. Chairman, I too oppose the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA). The Morella amendment is premised on the notion that H.R. 1872, as reported out of the committee, would work a taking of COMSAT's property. This proposition seems to me to be entirely unfounded.

To begin with, I am at a loss to see any property that would be impacted by the bill. The term "property" has a particular legal meaning. It is not just a unilateral expectation, as the opponents of this bill have suggested, but rather an entitlement based upon a mutually explicit understanding.

The fact that COMSAT or its shareholders may have made investments with the expectation that COMSAT would continue to operate as the monopoly provider of INTELSAT and Inmarsat's services in the United States does not give them a property interest in those investments. Half the equation is missing.

To constitute property protected by the fifth amendment, COMSAT would need to show that these expectations were based upon a mutuality of understanding sufficiently well-grounded to create an entitlement protected at law. Of course, any such claim would collide headlong with the reality that when Congress established COMSAT in the 1962 Satellite Act, it expressly reserved the right to modify COMSAT's role in the market at any time.

□ 1230

To the extent that COMSAT and its shareholders made investments based on the provisions of the Satellite Act, they did so presumably knowing of the risk that Congress might some day do so. It is absolutely baffling to me that COMSAT could think that Congress created an entitlement, a property interest, by the terms of the Satellite Act. In any event, even if COMSAT had identified a protected property interest that would be impacted by H.R. 1872, the legislation hardly would reach the level of a regulatory taking, quote-unquote, under the Supreme Court's cases.

The bill will without a doubt adjust the benefits and burdens of economic life, quote-unquote, and end one of the last government protected monopolies in the telecommunications field. It would not, however, take any tangible property or vitiate any specific right or assurance conferred by the government. I therefore urge the Members to oppose this amendment.

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

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, the amendment gets to the nub of the question. It says this, and I can understand why the opponents of the amendment are so distressed about it, because it says,

> In implementing the provisions of this section, the Commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the Fifth Amendment to the Constitution.

What is wrong with that amendment? All it says is that the Commission has to respect the Constitution and cannot create a liability on the taxpayers because we have engaged in an unconstitutional taking or because we have violated the provisions of the Tucker Act.

I want my colleagues to listen to what the Washington Legal Foundation said. By the way, the gentleman from Virginia (Mr. BLILEY) is a major contributor to that agency and has sent them a wonderful letter in which he told them how he wanted to support the good work of that foundation. Here it is. This is what they had to say:

> In response to your written request for counsel, the Washington Legal Foundation has undertaken a legal analysis of H.R. 1872. After the consideration of H.R. 1872, WLF has concluded that H.R. 1872 would indeed effect a compensable taking of private property belonging to COMSAT, as well as a material breach of the terms of the compact between the United States and COMSAT. WLF's conclusion should not be construed as endorsement or opposition to H.R. 1872.

They are giving you a clear warning. The amendment says that the Commission cannot subject your constituents and mine to that kind of liability. I would want to observe something else. What this bill does is to impair contract rights of COMSAT and to impair the value, the good will and the corporate assets of that corporation.

The Supreme Court has been very clear on this point. They have said that the most significant factor in determining whether economic regulation constitutes a taking is the extent to

which, and I quote now from the Supreme Court, "the regulation has interfered with the owner's reasonable investment-backed expectations." That is from the Penn Central case, *Penn Central Transportation Company* v. *The City of New York*, 438 U.S. 104, 124, dated 1978.

They went on to say some other things which I think are important. They went on to say, "The simple words," and I am now interpolating, the Supreme Court said "that Congress may at any time alter, amend and repeal this act * * * cannot be used to take away property already acquired * * * or to deprive" a private "corporation of the fruits already reduced to possession of contracts lawfully made."

We are here with considerable diligence in this legislation interfering in the contract rights of COMSAT. COMSAT's officers are, at the proper responsibility and under the insistence of their shareholders, most assuredly going to file suit under the Tucker Act. I can offer my colleagues firm assurances that the judgment that will be awarded to COMSAT will be most generous and it will be done at the expense of your constituents unless this body has the wisdom to adopt the amendment offered by the gentlewoman from Maryland.

It should be observed, this does not do anything, the amendment, except to assure that there will be no liability imposed on our constituents because of an unconstitutional taking by this body. I urge my colleagues to keep that thought in mind. You have a responsibility to pass legislation in this body which observes the Constitution, but which also does not subject our taxpayers to a liability for wrongful acts taken by this Congress.

I would urge my colleagues to keep carefully in mind that the sums here are not piddling. They amount to billions of dollars. My question to my colleagues, Mr. Chairman, is, do you want the responsibility on your soul and on your conscience of having dissipated this enormous sum of money and subjected your taxpayers to that kind of liability?

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

Mr. Chairman, I think we have just heard from the ranking member on the Committee on Commerce that he is prepared to accept as a norm for debate and decision in the House in futuro the decisions of the Washington Legal Foundation. I think that will actually help us a great deal here in our deliberations in the House. I think he is quite right, the Washington Legal Foundation is a fine outfit. I will look forward to holding the ranking member to his new principle.

But the Washington Legal Foundation, which he sings the praises of, has written us a letter subsequent to the one that he is describing that says, "I want to make it very clear, the Washington Legal Foundation does not in any way oppose this bill or in any manner support amendments to this bill." Specifically, the letter was written so that we would all know that they oppose this amendment. That is the position of the Washington Legal Foundation.

Furthermore, the Congressional Research Service has written us on the same point telling us that it is their legal analysis that the impacts described in the gentleman's presentation are not likely to support successful takings claims. That is the view of the Congressional Research Service.

So the question is not whether we are going to expose taxpayers to spending huge amounts of money because Congress did something wrong. This amendment would expose taxpayers to huge expenditures of their hard-earned money because Congress did something right, which is to take away the monopoly powers that this bill in fact takes away from COMSAT. This is not a Fifth Amendment taking.

Private actors can be disadvantaged in any number of ways by governmental action. A private landowner can discover that the value of her real estate is reduced to zero because of the land being declared essential habitat. That is an example of governmental action that ought to be considered a taking and the landowner in that case ought to be fairly compensated. But here our private actor is not some innocent landowner trying to recover from government regulation. This is a private company seeking to compel continued government protection for the unique monopoly powers, the privileges and benefits that flow from those monopoly powers that it enjoys. This is an anticompetitive policy that is in fact hostile to true property rights. In fact, current law unfairly restricts the ability of private companies to compete. Instead it guarantees to COMSAT's investors monopoly-sized returns on their investments.

What property does COMSAT have that it alleges is being taken? It suggests that takings claims are raised by the "fresh look" provisions of this bill. That is the language that enables the FCC beginning in 2000 to permit users or providers of telecommunications services to renegotiate contracts they signed with COMSAT prior to the repeal of its statutory monopoly as the only U.S. company authorized to sell INTELSAT services. In other words, COMSAT wants to retain its monopoly powers and anything less would be considered a taking.

The United States Supreme Court has repeatedly ruled that persons doing business in a regulated marketplace should expect the legislative scheme to change from time to time, even in ways that might be unfavorable to their interests. This principle was most recently reiterated by the Supreme Court in its unanimous 1993 decision in Concrete Pipe, which quoted from the Court's 1958 decision in FHA v. The Darlington. Here is what the Court said. "Those who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendments to achieve the legislative end."

Even if COMSAT were to pretend that it is not a participant in a heavily regulated marketplace, and, that would be a tough argument for COMSAT to make because they testified before Congress just last year that their company is hamstrung by a burdensome regulatory regime, Congress took special care when it created COMSAT in 1962 to let investors know that there would be no guaranteed return on their investment. These days COMSAT gets an 18 percent guaranteed rate of return. These days INTELSAT gets immunity from antitrust lawsuits. There is no doubt that H.R. 1872 will impair COMSAT's ability to obtain monopoly rents in the international satellite marketplace, and that is the purpose of the bill.

While the bill does end an obsolete and outdated international monopoly, it does not deprive COMSAT of the right to compete in the new competitive marketplace. Instead, COMSAT will be forced to compete. Nor will H.R. 1872 bar COMSAT from providing service to the same customers to whom it presently provides service. But apparently in COMSAT's view, the company should be compensated by U.S. taxpayers if it is not guaranteed anything less than the absolute right to sell its services at inflated monopoly prices. That is a bad idea. Therefore, this amendment is a bad idea. I urge my colleagues to reject it.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, this amendment is searching for a problem that does not exist. The argument that takings is an issue seems tenuous at best. The gentleman from California (Mr. COX) I think has done a superb job of rolling out the case in detail on this issue because it defines contracts as property, which I think is a new twist. I have not heard of that one before.

I would congratulate those that are offering the amendment and supporting it for coming up with such a unique take on this. But the argument that takings is defined as property I think is faulty. Furthermore, removing the FCC's ability to apply service restrictions, or a fresh look, actually cuts out the heart of the bill. These provisions are incentives to privatization and they are necessary incentives and need to be retained. I would like to believe that COMSAT and INTELSAT will act in all of our best interests without any prodding, but that does not seem to be

the case, nor does it seem to be realistic.

As I warned in my opening statement, this amendment is designed to kill the bill, not to amend it or to improve it. If Members of the House wish to support and protect a monopoly, then they should vote for this amendment. If they are in fact pro-competition and pro-privatization, they should vote to oppose the amendment.

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

Mr. Chairman, I rise in support of the Morella amendment. The previous speaker, a dear friend of mine, had mentioned, and I, like her, am not an attorney but I think it is very clear that contracts are property. I think that the Supreme Court made that decision about a century ago. Beyond that, this legislation may or may not lead to privatization and competition in international communications. I do not think that we are all very sure if exactly that is going to happen. I have my doubts whether it will or not.

I think the approach has been backwards. But whether or not this legislation succeeds in its goal, one thing is clear, that your constituents will end up footing the bill. We could pass this bill, it may fail to open up telecommunication markets in foreign lands, and still could end up spending billions of dollars of your taxpayers' money.

□ 1245

We could end up with a very extensive status quo in telecommunications.

Many of the investment decisions that COMSAT has made over the years have been made at the urging of the United States Government, and if we look at comments made by Nancie Marzulla, who is the President of Defenders of Property Rights, she said that Congress would have to compensate companies for investments they made at the government's behest and approval, investments made specifically to solidify the U.S. as the satellite industry leader.

Similarly, if we take a look at comments made by the Washington Legal Foundation, if adopted, H.R. 1872 would effect a substantial compensable taking of private property, and yet this legislation will take away COMSAT's business, will force them to renegotiate contracts that do reduce the value of their investments and really open up the United States Government to liability for damage for takings of COMSAT property. Those contracts are real property.

Now I am reminded a little bit in this legislation of an old movie. I do not know how many of us in here remember the old movie "Blazing Saddles." They had a sheriff in there, Clevon Little, who held a gun to his own head and said, as my colleagues know, "If you don't let me out of here, I'm going to shoot myself." That is really what this bill does. If my colleagues view this as a United Nations of satellites, we are holding a gun to our dear friend, Billy Richardson's head. And I refer to him as "Billy" only because I have great affection and friendship for the U.N. Secretary. It is like us holding a gun to his head and saying to the other countries, if they do not do what we want them to do, we are going to shoot our own representative.

Mr. Chairman, that would be foolish, and I think that that is what this amendment tries to correct.

While the sanctions imposed by this bill may not work, they will cost money.

My colleagues should support the Morella amendment, block the sanctions that really do amount to a taking of property, try to save our constituents money, try to keep the United States satellite industry viable and competitive.

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

Mr. KLINK. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I just want to ask a question to my colleagues on the other side.

They said there is no taking here, and so we need to have no fear on that. The gentlewoman from Maryland offers an amendment which says there can be no taking. Well, if they do not intend to do a taking, if the amendment says there is no taking, if in fact there is no taking, what is wrong with the amendment?

I would think those who say there is going to be no taking here would accept this amendment with vast enthusiasm and would be speaking for it, not against it. I am curious. What is it that they are trying to tell us; that there is a taking and so they do not want the amendment, or that there is not a taking so the amendment is not needed? I do not know.

But I do know one thing. If there is a possibility of the taking, we better doggone well see to it that we adopt the amendment so that we do not impose upon our constituents $6 or $7 billion of liability because of the unwise action in this Chamber today.

Mr. KLINK. Mr. Chairman, I thank the gentleman from Michigan.

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

Mr. KLINK. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Let me first commend the gentleman on his statement. I cannot think of a better metaphor than the one he gave us that we are literally telling a U.S. company, "We're going to shoot you and your customers if these international organizations don't do what we want."

Do my colleagues know that in the bill is a provision that says even if they do what we want, they still have to shoot themselves? I will talk to my colleagues about that one in a minute.

Mr. KLINK. Mr. Chairman, I thank the gentleman for his insight, and I thank the gentleman for his leadership on this issue.

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

Mr. Chairman, first let me say that I am pleased that the Washington Legal Foundation sent a letter of clarification to the chairman, the gentleman from Virginia (Mr. BLILEY). They should have because they are 503(c), they cannot lobby on a bill, they did not mean their letter to the gentlewoman from Maryland (Mrs. MORELLA) to be a lobbying effort. But notice they have not repudiated what they said. They have not said, we change our mind, we change our opinion.

Here is what they said this bill does, and Members who are listening in their offices or wherever they may be, I hope they pay close attention to this. This is what the Washington Legal Foundation said this bill does without the Connie Morella amendment:

It says that this bill provides that if INTELSAT and Inmarsat do not privatize quickly enough, as this bill hopefully gets them to do, this bill will punish COMSAT by telling COMSAT, this U.S. private company, that they no longer can offer new services to their customers. All they can offer them is the old services they used to give them.

Well, as the Washington Legal Foundation points out, those core services are illusory because there are changes in technology causing those markets to disappear. If they cannot offer the new services, who the heck wants to do business with them?

This bill literally says to COMSAT and its customers, "Quit doing business, shoot yourself in the head because you can't offer the new services that all the other companies will be offering its customers." Why? Because Inmarsat and INTELSAT did not move fast enough to privatize, even though they could not control that.

But it gets even worse. The bill also says that even if INTELSAT and Inmarsat privatize at the speed of light, if they are faster than a speeding bullet and stronger than a locomotive, and they get to this world of privatization faster than the chairman wants; even if they do that, this bill says that COMSAT's customers no longer have to keep their contracts. They can renegotiate them with whenever they want. They can leave doing business with COMSAT anytime they want.

Now put these two provisions together, and we really get the sense of what this is all about. This bill says in effect that COMSAT may not be able to offer its customers new services and, by the way, they can get out of their current contracts. Now what do my

colleagues think is going to happen? If this bill passes without the Morella amendment, in fact, COMSAT is going to lose those customers.

Why? One, we just abrogated their contracts; and, number 2, they just found out that COMSAT may not be able to offer them any new services. Why would someone stay with a company that came out with new services when Congress just told them they do not have to keep their word, they do not have to live up to the terms of their contract? Why would one stay? They would leave.

And guess what? That is exactly what the people who are behind these two provisions want. Why? Because they are competitors of COMSAT. They would like to have those customers, and so they are asking us in Congress to rearrange the customer base, to send customers away from COMSAT and to send them to their competitors. That is exactly what is behind these two amendments.

And if we do that, if we do that, the Washington Legal Foundation warns us, warns us very clearly, that such sweeping congressional abrogation of the private contract rights of a single company, without any judicial determination of wrongdoing, may be unprecedented in U.S. history. What an awful taking. We do not even get to go to court. Congress says, "Your property is gone." Congress says, "Your contracts are no good." Congress says, "The company can't give you any more services." Congress destroys a U.S. company. What an unprecedented taking in U.S. history.

And the Washington Legal Foundation concludes by saying,

> Congress may legitimately decide it no longer wants COMSAT to serve its historic role, but if it does so, it is required by the fifth amendment to compensate COMSAT's shareholders for all the immense capital they have put in public service at the government's request.

In short, we, the taxpayers and the citizens of this country, will have an enormous legal bill to pay because we in Congress incurred that debt, we in Congress abrogated contracts, we in Congress took away private property without providing compensation.

I suggest to my colleagues if there is going to be no taking under this bill, why not pass an amendment? If there is not going to be taking under this "fresh look" approach under this restricted service provision, if these contracts really will not get abrogated, if none of this will really happen, then what is wrong with the Morella amendment which says do not do it if it takes property under the fifth amendment. Do it only if, and only if, we are not taking property without compensation as a violation of the fifth amendment.

This amendment makes this a good bill. I urge my colleagues to adopt it for the sake of the taxpayers and the citizens of this country; more importantly, for those of us in Congress who have never been asked to vote to abrogate private contracts.

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

Mr. Chairman, I rise in opposition to this amendment and I want to, if I can, address issues that have been raised by the last three speakers, the gentleman from Pennsylvania (Mr. KLINK), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN).

Now for everybody who is sitting back home, in their office, in the Chamber, and really do not understand what we are arguing about in terms of satellite communication, let us make it very simple. There is a monopoly today, and today we are trying to end the monopoly. That is what this entire debate is all about.

Now contracts are not in perpetuity. The United States over the course of time makes lots of contracts. We buy everything from airplanes to railroad tracks to nuclear weapons and paper clips and staplers and cars and everything else in the world. We do not go to General Motors, say we are only going to buy cars from General Motors for the rest of our lifetime. We make a deal, the deal ends, and we move on. And that is essentially the principle we are discussing today: Can we end the deal with COMSAT?

Now everybody has said for the last 5, 6, 7 years that the monopoly should be reformed, and guess who leads the opposition today to this amendment? It is the monopoly itself because it wants to hold onto power, it wants to eliminate competition, and it wants to keep all the money for itself. Very simple rule in economics.

Now the gentleman from Pennsylvania (Mr. KLINK) said, the last phrase that he used was to say to keep the U.S. satellite industry viable and competitive. There is no competition today. There is only one guy who calls all of the shots. That is why every private satellite company that wants to compete supports this bill, and it is why every major user of satellite communications, the folks who buy stuff from COMSAT, want the bill; because they want a choice. They understand this, anybody who is listening to this debate today.

There are choices about what television stations to watch, what newspapers to buy, where to buy groceries, where to fill up the car with gasoline. And today, people who use satellite communication services, the purchasers, do not have any competition; it is a monopoly.

Now as to the heart of the amendment that this constitutes a taking, keep in mind that the fifth amendment of the United States already provides protection against anybody who thinks that their property has been unjustifiably seized and who wants compensation from the United States Government. There is a takings protection, and obviously everything that Congress does has to abide by the Constitution, and therefore COMSAT and anybody else we pass legislation affecting today has the ability to appeal back to the fifth amendment.

Now, if the fifth amendment already protects them, then they do not need this takings provision. If they need a takings provision, then it is not applied to in the fifth amendment. And they are essentially asking us to pass something that is already redundant and in fact is enshrined in the basic document that this body has to live by.

So that raises the question who wants the takings provision in here? And open up the mystery box, and reach inside, and who is inside there with a business card? It is COMSAT; because what they want to say is, "You can't pass go, you can't force competition in the industry unless the FCC thinks it will do so." And so they can delay, by essentially saying there cannot be a taking; so the FCC has to go to court to prove that it is not a taking, and if it is not a taking, then we can go forward.

It is a delaying tactic. It is legal jargon thrown out there, with no sense of seriousness, and we have got one opinion that says there may be a remote chance that there is a taking.

Now the Congressional Research Service that does work for Congress to essentially figure out legal issues has said there is no taking, and our best legal experts inside Congress itself say that there is absolutely no reason for this taking provision because they are protected by the fifth amendment; and secondly, because there is no takings here whatsoever. We are simply saying, "You've had an exclusive deal for decades, you're the only people who run the satellite business in this country, and we're saying in Congress it comes to an end. It's over."

The only way we are ever going to have competition for satellite providers and purchasers of satellite services is by making sure that COMSAT's monopoly comes to an end. And when monopolies come to an end anyplace, in the railroads, in the steel industry, the kind of debate we are now having about the computer industry in this country, the basic underlying economic theory is that competition drives prices down, it does not raise them.

And so if we take the argument of the gentleman from Pennsylvania (Mr. KLINK) to its logical conclusion, the only way we can have competition and lower prices in the marketplace is if the government gives everybody a monopoly, and then not only do we give them a monopoly, we give them a monopoly for eternity. They can never have any competition because that is a bad thing.

So for those of us in this body who are interested in competition, who are interested in fundamental economics, the choice that is good for the American consumer, then I urge the defeat of this amendment because it is only a delaying tactic to make sure that a monopoly can preserve its power as long as possible.

□ 1300

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, this is not a debate about takings. This is a debate about givings. The givings of the American people for 35 years to a single company and a single orbiting cartel. The American people gave this company a domestic monopoly over resale of INTELSAT and Inmarsat services. The American people gave to COMSAT and Inmarsat and INTELSAT immunity from antitrust law. The American people gave them privileged access to orbital slots and to spectrum. The American people gave them access to all of these privileges because there were no other companies, there was no other way of doing it; only by using this mechanism could we create this industry.

Over the years, the American people have granted the same opportunities to electric monopolies, to local telephone monopolies, to long-distance monopolies, to cable monopolies. But we always reserve the right, when technological change makes it possible, to introduce competition. In fact, within the legislation that was passed in 1962, the Congress expressly reserved the right to repeal, to alter, or to amend the provisions of the 1962 COMSAT-INTELSAT Act. We reserved to ourselves this right, as we always have.

Now, we can go back in history, all the way back to 1602 when Queen Elizabeth had granted to one individual and one company a monopoly on playing cards in England. Now, the Parliament ruled, after a point in time, that other companies should be able to get into the business of selling playing cards in England. It is the famous monopolies case. Now, the courts in England ruled that the Parliament had the right to have other companies sell playing cards, notwithstanding the original monopoly.

Standard Oil, 1911 in the United States, says, we have got a monopoly; the Congress has no right to break up our monopoly. The Supreme Court of the United States in 1911 ruled, the Congress has a right to break up monopolies, the Antitrust Division of the Justice Department has the right to break up monopolies. And every electric company, every telephone company, every cable company, every monopoly for time immemorial has argued that it is a takings. It is not. It is a givings. We gave it to them, and we have the right to take it back with reasonable economic regulation, which does not put them out of business.

We are not putting COMSAT out of business. We are allowing other companies to get into business, because the reality is that for at least the last 15 years, that taking has been COMSAT, INTELSAT and Inmarsat blocking other American company's ability to get into these markets.

The taking goes on every day when dozens of companies across America do not create jobs because they are denied the opportunity. They have had this right taken from them. The consumers do not have lower prices because that opportunity has been taken from them. That is what this legislation is all about. It is ending the giving, that we have been undertaking for 35 years, to a monopoly. That is the privilege of the Congress. We have always had this right and we will always retain that right.

So I say to my colleagues, we have a choice. Support for the Morella amendment is for a continuation of monopoly, of a global economic cartel with COMSAT as its American subsidiary, its American affiliate continuing on this tradition of denying American companies and American workers the ability to get into these industries the way we shoot to dominate the global marketplace.

I urge a very strong "no" on this amendment. For those of us who believe in competition, for those of us who believe in opening up markets, for those of us who believe that America is going to be the dominant telecommunications leader, a vote "no" here guarantees that we enter this world as its dominant power.

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

Mr. Chairman, I have listened to a lot of the debate, and I am concerned about the giving as well, and sometimes we just give a little bit too much of the rock away.

With that, I yield to the distinguished subcommittee chair, the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Let me point out that this is not about monopoly, it is not about monopoly. COMSAT owns a franchise right to deliver services over these international satellites, but they do not have a monopoly. That is totally wrong. If COMSAT were a monopolist in this world of international telephone and other data services, then there would not be a Hughes or a PanAmSat Corporation, another private satellite corporation. There would not be a Loral, there would not be a Teledesic, a Columbia, Meridian, ELLIPSO, all private satellite companies just like COMSAT, providing communication services in this country and around the world. There would not be an undersea cable taking so much business across the oceans and delivering communications services across the world.

In fact, COMSAT's percentage of voice services right now is 22 percent. Does that sound like a monopoly? And have they signed monopoly contracts? Well, here is what the FCC said on April 24, 1998, just a couple of weeks ago, on that very point. It said that we conclude the contracts that COMSAT has signed, the long-term contracts to AT&T and MCI, actually permit AT&T and MCI to choose COMSAT's competitors for services. Does that sound like a monopoly, where one signs a contract that allows a company to use other competitors for services?

What I am trying to tell my colleagues is that this is not about a monopoly, as much as my colleague may want to make it about a monopoly. It is about whether or not one of these companies, COMSAT, which happens to be the government franchisee on these international satellite systems, which competes with all kinds of other private companies: PanAmSat, Loral, Teledesic, Columbia, Meridian, ELLIPSO and Cable Undersea, whether this one company and its customers are going to be hammered with unconstitutional takings. That is what the issue is all about.

Finally, let me make one other point. If any one of these companies, PanAmSat included, thinks that COMSAT has an anticompetitive contract, they have a remedy today. They can go to the FCC, they can go to the Federal court and they can demand that that contract be abrogated.

In fact, PanAmSat took a case to the district court just recently. Here is what the court said. Nothing in the record suggests that COMSAT secured any of the contracts by means of anticompetitive acts against PanAmSat. They threw PanAmSat out of court, and yet we in Congress are going to overturn that court decision and abrogate those contracts.

No. The amendment protects against this taking, and my colleagues ought to vote for it.

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

Mr. TRAFICANT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, listen to the language of the amendment. This is what it says: Takings prohibited. In implementing the provisions of this section, the commission shall not restrict the activities of COMSAT in a manner which would create a liability for the United States under the fifth amendment to the Constitution.

That is all it says. It does not say the commission is supposed to allow monopolies. It simply says, we are not going to subject the taxpayers of the United States to a $6 billion or $7 billion liability by taking property from

COMSAT. If there is no taking under this amendment, I say to my friends who oppose it, there is nothing for them to fear. If there is a taking, by God, my colleagues better pray that this is in the bill, because if it is not, my colleagues are going to be trying to defend through our Constitution why they dissipated $6 billion or $7 billion of your constituents' and your taxpayers' money.

I thank the gentleman.

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

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me summarize by pointing out that the Morella amendment simply says, do not do anything that is going to take private property that the taxpayers of America are going to end up having to pay for.

Now, the opponents say, well, the fifth amendment already protects them. It protects the company by making taxpayers liable.

That is not a good protection for us. If we want to protect the American taxpayers, we tell this bill and we tell the FCC, do not do anything that takes private property that American taxpayers are going to end up having to compensate for. That is why we need to pass this good amendment.

Mr. TRAFICANT. Mr. Chairman, in closing, I think the interpretation of the Constitution has been so perverted I think we had better be very specific on this takings issue.

Mrs. MORELLA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from Maryland.

Mrs. MORELLA. Mr. Chairman, I know there are some differences of opinion in this Chamber and they are well founded, but all of us feel that there should not be improper takings.

We have had a number of opinions on it. Therefore, this amendment should be right in order and right in accord with what we have been saying. So put this amendment in the bill, it will make a difference, and this bill will then become law ultimately. Without it, there will be problems.

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

Mr. Chairman, I yield to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding.

The fifth amendment already addresses this; that is why we have a Constitution, to protect us. Here, once again, COMSAT wants special privileges. The Constitution is not good enough for COMSAT. They want special protection for a reason to be able to stop the FCC from implementing my bill, by tying it up in court. COMSAT's strategy is to delay because they make a monopoly of profits under the status quo at the expense of our constituents.

Let me say a couple of words about monopoly. COMSAT claims its share of the market for all switch voice and private line services is 21 percent. The figure is irrelevant. International satellite delivered services constitute a separate submarket within the larger market for international telecommunication services, because satellites provide more cost-effective service for thin traffic paths and because most carriers prefer to use a mix of cable and satellite facilities, international carrier 102 FCC.

COMSAT has virtually the entire market for international satellite delivered telephone onto itself. Separate satellite systems generally have not been able to carry public switch telephoning, which accounts for less than 1 percent of PanAmSat's revenues, Economists Incorporated, Market Power, Market Foreclosure and INTELSAT, February 16, 1998. By the time INTELSAT permitted separate systems to offer any meaningful quantity PSN service in November of 1994, COMSAT had already locked up the largest carriers to long-term contracts.

This amendment is a red herring; it is just a way for COMSAT to tie up the FCC in court for years and to preserve their monopoly. I hope my colleagues will vote the amendment down. I thank the gentleman.

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

Mr. Chairman, hopefully, Members are listening to the debate and listening carefully, because there have really been a lot of red herrings, as my Chairman has stated previously.

The facts of the monopoly issue of COMSAT are just a fact. We have heard numbers thrown out: 20 percent of the market, 22 percent of the market. In the specific area of international satellite communications, it is 100 percent of the market. It is a monopoly. There is no way around it. It is a monopoly, that is, a statutory monopoly that this Congress granted for good reason many years ago.

But that monopoly that exists is a monopoly. If we are trying to communicate with a phone call from here, Washington, D.C., to Africa, to Asia, there is only one path to complete that phone call, and it is through COMSAT, through INTELSAT, 100 percent.

There is no option to that whole aspect, and if one does not accept that the monopoly exists, I guess if one wants to convince oneself that it does not exist, I do not see how one can, but I guess if one wants to, one can, then the next logical step I could understand one saying, well, there is a taking going on in terms of saying that some of the existing contracts need to be modified.

□ 1315

I guess if we accept that there is not a monopoly, then there is a logical step that we could take. But, again, I find it very, very difficult even to perceive that argument.

But let me follow up though really with the fact that the monopoly exists in terms of the issue of the taking. What has been spoken about before, and I think from a Member perspective to completely understand, is that those people who have contracts with COMSAT entered into those contracts in an environment of dealing with a monopoly, a monopoly in terms of the monopoly power that they had in terms of those contract negotiations. This is not the first time this type of situation has existed.

What I have pointed out previously and I think is absolutely appropriate as an analogy is when AT&T was broken up for long distance service, AT&T was a monopoly. It was broken up. When it was broken up, the existing contracts were able to be modified. That is exactly what is being done here.

It is not unprecedented. It has been done in other areas as well. That is the policy implication behind what we are doing.

Mr. Chairman, I urge Members to oppose the amendment and support the bill.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. MORELLA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 304, answered "present" 2, not voting 15, as follows:

[Roll No. 127]

AYES—111

Andrews	Fowler	Mink
Archer	Frost	Morella
Baker	Furse	Nethercutt
Barcia	Gekas	Northup
Barrett (NE)	Gilchrest	Nussle
Bartlett	Goss	Oberstar
Berry	Granger	Owens
Blagojevich	Gutknecht	Oxley
Boehlert	Hall (OH)	Pascrell
Boehner	Hall (TX)	Paul
Bonior	Hamilton	Payne
Boucher	Hilliard	Peterson (MN)
Brown (FL)	Horn	Petri
Calvert	Hoyer	Pombo
Campbell	John	Pryce (OH)
Chenoweth	Johnson (CT)	Rangel
Clayton	Johnson, E. B.	Redmond
Clyburn	Johnson, Sam	Regula
Condit	Kaptur	Riley
Conyers	Kilpatrick	Rivers
Cummings	Klink	Rohrabacher
Davis (IL)	Kucinich	Royce
DeLay	Livingston	Sabo
Dingell	Maloney (NY)	Salmon
Dooley	Martinez	Scarborough
Doolittle	Mascara	Schaefer, Dan
Doyle	McCarthy (MO)	Schumer
Ehrlich	McCarthy (NY)	Sensenbrenner
Ensign	McIntosh	Sessions
Farr	Meek (FL)	Skelton
Fazio	Meeks (NY)	Stark
Filner	Menendez	Stearns
Foley	Minge	Stenholm

Stokes
Tauzin
Taylor (NC)
Thomas
Thompson
Torres
Towns
Traficant
Upton
Watt (NC)
Wynn
Young (AK)

NOES—304

Abercrombie
Ackerman
Aderholt
Allen
Armey
Bachus
Baesler
Baldacci
Ballenger
Barr
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Bonilla
Bono
Borski
Boswell
Boyd
Brady
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Clay
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Graham
Green
Greenwood
Gutierrez
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (WI)
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Matsui
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Ney
Norwood
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pastor
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Reyes
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sanchez
Sanders
Sandlin
Sanford
Saxton
Schaffer, Bob
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Turner
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (FL)

ANSWERED "PRESENT"—2

Cardin
Sawyer

NOT VOTING—15

Bateman
Carson
Christensen
Fossella
Gonzalez
Hastings (FL)
Hutchinson
McCollum
McNulty
Neumann
Pelosi
Radanovich
Riggs
Rogan
Skaggs

□ 1340

Mrs. KENNELLY of Connecticut, Ms. MILLENDER-McDONALD and Messrs. HEFLEY, MILLER of California, SPRATT, CASTLE, LEVIN, and FOX of Pennsylvania changed their vote from "aye" to "no."

Mrs. JOHNSON of Connecticut, Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. DOOLEY of California, CLYBURN, OWENS, and STOKES changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. TRAFICANT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. TRAFICANT:

At the end of the bill, add the following new sections:

SEC. 4. COMPLIANCE WITH BUY AMERICAN ACT.

No funds authorized pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–30c, popularly known as the "Buy American Act").

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

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

SEC. 6. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspensions, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

MODIFICATION TO AMENDMENT NO. 8 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the amendment be modified with the language at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 8 offered by Mr. TRAFICANT:

In lieu of the matter proposed to be inserted by the amendment, on page 33 after line 17, add the following:

(4) Impact privatization has had on U.S. industry, U.S. jobs and U.S. industry's access to the global marketplace.

The CHAIRMAN. Is there objection to the modification offered by the gentleman from Ohio (Mr. TRAFICANT)?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I support this legislation. I want to commend the gentleman from Virginia (Mr. BLILEY), the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN) regardless of how they feel on the issue.

The time has come for this legislation. I have some concerns. In this legislation is a section that requires annual reports to the Congress of the United States. The contents of those reports are listed to include the following progress with respect to each objective since the most recent preceding report. You see, these reports are to measure whether or not this legislation is meeting the objectives and is carrying out the provisions of its intent.

The first thing the bill calls for is the progress it makes to do that; the second is the views of the respective parties with respect to the privatization issue; finally, the views of the industry and consumers on privatization.

Quite frankly, although I am concerned about the views, my biggest concern is not about anybody's views, my big concern is about the impact this legislation will have on jobs, the United States industry, United States competitiveness, and our access to the global marketplace from a competitive spirit.

The Traficant amendment simply says that there would be another section in this report language that will ask for each year from the President and the Commission to update us on the impact that privatization has had on U.S. industry, United States jobs, and United States industry's access to the global marketplace.

I would hope that the legislation would be accepted. It makes, in my opinion, good sense.

Mr. Chairman, I yield to the distinguished gentleman from Virginia (Mr. BLILEY).

□ 1345

Mr. BLILEY. Mr. Chairman, this gentleman has reviewed the amendment and finds it acceptable and urges Members to vote for it.

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

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman very much and I want to congratulate him on his amendment. I think he is adding substantially to the nature of this bill, in the change which is taking place internationally, its impact upon the United States, and how fully we should understand it. I thank the gentleman very much.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, I appreciate the gentleman's comments, and I am hoping that impact is going to be favorable.

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

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I wanted to thank my friend for offering the amendment, congratulate him on it, and suggest that not only do we not have any opposition to the amendment, but we gratefully and warmly embrace it, and I would urge all Members to support it.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio (Mr. TRAFICANT).

The amendment, as modified, was agreed to.

The CHAIRMAN. The committee will rise informally.

The SPEAKER pro tempore (Mr. DUNCAN) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

COMMUNICATIONS SATELLITE COMPETITION AND PRIVATIZATION ACT OF 1998

The Committee resumed its sitting.

AMENDMENT NO. 4 OFFERED BY MR. GILMAN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. GILMAN:

Page 33, line 5, strike "the Congress"; and insert "the Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate".

Page 33, beginning on line 20, strike "Committee on" and all that follows through "of the Senate" on line 22 and insert the following: "Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate".

Mr. GILMAN. Mr. Chairman, I commend the gentleman from Virginia (Mr. BLILEY) for taking up this complicated issue of international satellite policy. Furthermore, I support the basic purpose of this measure, which is to move ahead with privatizing the intergovernmental satellite organizations. It is an important undertaking to meet the current telecommunications marketplace.

However, in consultation with the distinguished ranking minority member of the House Committee on International Relations, the gentleman from Indiana (Mr. HAMILTON), I am offering an amendment to make a simple change to the bill before us. It merely adds the House and Senate Committees on International Relations to the committees required to be consulted prior to the meetings of the INTELSAT or Inmarsat Assembly of Parties, and revises the annual reporting requirement to also include these committees.

We are interested in this legislation because changing international communication satellite policy has foreign policy implications. I want to be clear we are not seeking to interfere with the Committee on Commerce's jurisdiction to determine telecommunications policy, but the State Department is the lead agency in the negotiations with the intergovernmental satellite organizations.

State traditionally has had the lead in multiagency teams negotiating with any international organizations. Inclusion of the Committee on International Relations in the reporting and consultative process allows the committees to perform their fundamental oversight responsibilities.

I hope the chairman will be willing to accept this amendment. This bill raises other concerns, which were flagged in testimony by the administration last fall. These issues, such as including specific directives on the conduct of the negotiations, deserve further consideration.

I have a concern about the expanded responsibilities given to the Federal Communications Commission in this bill for the multilateral negotiations aimed at privatizing INTELSAT. The President should have the discretion of ensuring that our State Department, and any other relevant government agency, plays a role in this process.

I look forward to continuing to work with the Committee on Commerce as the bill proceeds through the process.

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

Mr. GILMAN. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I have reviewed the amendment and think it is a fair proposition. The State Department plays an important role in international negotiations, including regarding the intergovernmental satellite organizations.

My understanding is that this amendment is not intended to and in no way does affect the jurisdictional interests of our committees in the bill. Does the gentleman agree?

Mr. GILMAN. Mr. Chairman, reclaiming my time, this amendment has no impact nor is it intended to have an impact on our committees' jurisdictional interest.

Mr. BLILEY. Mr. Chairman, if the gentleman will continue to yield, with that understanding, I think we are prepared to accept the amendment.

Mr. GILMAN. I thank the chairman for his considerable consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment. It is amendment No. 7.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. TAUZIN:

Page 28, beginning on line 14, strike section 642 through page 29, line 24, and redesignate the succeeding sections accordingly.

Mr. TAUZIN. Mr. Chairman, let me first apologize for the complexities in this bill. There is no way for us to deal with satellite policy and the extraordinary nature by which this highly technical industry has developed without some very technical provisions.

Let me secondly again compliment the chairman and the gentleman from Massachusetts (Mr. MARKEY) for the bill. It is a good attempt at accomplishing something which must be accomplished very soon, and that is the privatization of the government organizations, INTELSAT and Inmarsat, which service telecommunications needs across the world.

Let me thirdly point out that the amendment I offer is in no way, shape, or form designed to gut this bill. It does not. It is a very targeted amendment which deals with a single provision in the bill, which many of us believe ought not be in the bill if we want a bill passed to accomplish its good purposes.

Now, what is the provision that this amendment deletes? It is a very simple provision. It is a provision that says that the contracts that COMSAT has negotiated with companies like AT&T and MCI, those contracts to provide services over their network, could be abrogated by those customers unilaterally, at their own will, within a couple

years. In effect, the provision in this bill is a grant of right by Congress to companies that have executed willfully, freely, contracts with COMSAT to then decide they will no longer keep those contracts and move their business to another company.

Now, is it our business to be abrogating contracts? Well, my colleagues will hear from the opponents of my amendment that this concept called "fresh look" is something that is often employed when monopolies are regulated and competitive market places are established. That is true, "fresh look" is a concept employed. "Fresh look" is available today to any competitor who wants to go to the FCC or to the courts and argue that it has a contract with COMSAT that was entered into in an anti-competitive mode.

Companies have done that. In fact, PanAmSat, one of COMSAT's competitors, went to the FCC and argued that the contracts that COMSAT had signed with some customers were, in fact, anti-competitive contracts and the FCC ought to order them abrogated. They lost that case. They took it to the district court and the district court ruled against them.

The district court ruled, in effect, that the contracts we are talking about here, signed by AT&T and MCI with COMSAT, were contracts that were willfully negotiated; that, in fact, contracts they signed on a long-term basis with COMSAT after turning down offers by PanAmSat and other competitors, willfully signed; and contracts that even allowed MCI and AT&T, indeed, to reroute their services when they wanted over their competitors. They were not anti-competitive contracts at all. The court ruled in favor of COMSAT that its contracts were valid, not anti-competitive, and that they should be honored.

Now, this bill does something very strange. This bill does not say that PanAmSat and others have a right to go and challenge these contracts. They now have that right. This bill overturns the district court, overturns the FCC, and gives to AT&T and MCI and the other customers the right unilaterally not to honor their contracts anymore, without any finding that COMSAT has done anything wrong or that these contracts are anti-competitive to any extent.

In effect, this bill asks my colleagues and myself, as Members of Congress, to vote to abrogate private contracts that the courts have already determined were freely and willfully entered into. This bill asks my colleagues and I to abrogate contracts that should be honored by the parties to that contract.

Now, why does it do that? Does it do it to punish COMSAT for bad behavior? No. The bill says that whether or not COMSAT does a good job in deregulating INTELSAT and Inmarsat, whether or not INTELSAT and Inmarsat do a great job of privatizing and deregulating their operations, if everything goes right, this bill still abrogates COMSAT's contracts with these people.

Now, why would we want to do that? Are we just mean? Are we interested in special interest kind of laws that gives customers to one company instead of another? Has COMSAT done anything that requires us to take away their contract rights and to let their customers out? To all of these things I hope the answer is no, and I hope my colleagues will vote for this amendment which takes this single provision out of the bill and protects contracts that deserve protection in the free market.

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment.

While I appreciate my colleague's support of the general goals of the bill, I cannot support his amendment. "Fresh look" is a policy used by the FCC in the past to foster competition in a market previously characterized as noncompetitive. Once the FCC removed a barrier to competition and enabled others to compete, in none of the previous instances did a court find the FCC's use of "fresh look" amounted to a taking, nor does our bill.

First, our bill does not abrogate private contracts; it merely gives consumers who entered into contracts with COMSAT, when it was the monopoly, the opportunity to renegotiate those contracts once that monopoly has ended. Most customers will probably stay with COMSAT if it provides quality service at a reasonable rate.

We have public statements of support for "fresh look" from a number of users, including the long-distance companies and the maritime users who have benefitted in the past when the FCC required "fresh look" in other instances.

The gentleman notes that "fresh look" will enable the long-distance carriers to get out of their contract obligations with COMSAT. Those contracts for INTELSAT capacity were entered into when COMSAT was a monopoly for such capacity.

To claim that these contracts were entered into voluntarily and, therefore, Congress should not permit their renegotiation, reminds me of a story I heard from a member of Parliament from another country. He was telling how he had flown to the States with his own country's government-owned airline instead of taking a U.S. carrier like he usually does. He asked the flight attendant if there was a choice for dinner that night. She paused for a moment and said, yes, there is a choice; you can either have dinner or not. Well, he voluntarily chose to take what was offered.

And the carriers voluntarily entered into contracts with the monopoly distributor of INTELSAT services. They could have chosen voluntarily not to have satellite redundancy, and, if there was a failure on their own cables, risk losing their customers; but they chose instead to contract with the monopolist rather than risk losing their customers during cable outages.

But that is not the kind of choice our bill is after. Under our bill, in January 2000, when direct access or competition to COMSAT for IGO access is permitted and COMSAT's monopoly is thereby terminated, then users will be able to negotiate with new interest. What is wrong with letting users negotiate lower rates? Their consumers will benefit from carriers' lower costs.

Second, the provision in the bill would not result in an unconstitutional taking of COMSAT's property. Takings are most often found with real estate. COMSAT has no property right in its FCC licenses. While it may argue it has a property right in its service contracts, the frustration of contracts due to economic regulation by Congress is not a permissible taking of property.

□ 1400

Frustration of contracts is not unconstitutional, but I do not think a court would even find frustration or abrogation. A "fresh look" merely gives COMSAT's customers a chance to renegotiate once competitors are available.

Third, COMSAT has no reasonable expectation in the status quo that would be tantamount to a property right, since COMSAT has been operating in a heavily regulated environment since we created it back in 1962, under a statute in which we expressly reserve the right to alter the regulatory landscape governing COMSAT at any time.

Moreover, the provisions would not subject the U.S. Government to any liability under the Tucker Act or any other statute, because they do not result in an unconstitutional taking.

Moreover, COMSAT still has a monopoly for INTELSAT and Inmarsat services. It makes eminent sense and is consistent with FCC precedent to enable COMSAT's customers to take advantage of the presence of new competitors once COMSAT's monopoly is eliminated under the bill. Without "fresh look," the elimination of COMSAT's monopoly will have less of a competitive impact, since customers will be unable to take advantage of new opportunities if they are locked into long-term commitments entered into when COMSAT was the only game in town.

There has been a lot of double-speak that COMSAT does not have a monopoly because of fiber optic and satellite competitors, and this Congress should not be adjudicating whether COMSAT has a monopoly but should leave it to the courts to decide. That is a whole lot of nonsense.

Congress' action, in passing the Satellite Communications Act of 1962 resulted in COMSAT obtaining a monopoly. And the FCC implemented that act so that today COMSAT and COMSAT alone may offer INTELSAT and Inmarsat services. Sure, COMSAT has competition from the long distance providers on their fiber-optic cables on certain routes and from some private systems with video and other services, but that does not mean they do not have a monopoly for INTELSAT and Inmarsat services. And only INTELSAT and Inmarsat have a global, ubiquitous reach that gives them a special place in the international market.

I urge defeat of the amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I would like my colleagues to listen to the language of the bill that the amendment would strike. And it begins with the fact that every year everyone who has a contract with COMSAT may do something under this legislation which says, "permit users or providers of telecommunications services that previously entered into contracts under a tariff commitment with COMSAT to have an opportunity at their discretion for a reasonable period of time," and I note each year they may do this, "to renegotiate those contracts or commitments on rates, terms, and conditions or other provisions, notwithstanding any term or volume commitments or early termination of charges in any such contracts with COMSAT."

What we are literally doing is saying that COMSAT has no contract which will stand for more than 1 year and will be constantly subject to repudiation by every provider or by every customer.

Now, if that is not a violation of the contract clauses of the Constitution or of the fifth amendment provisions with regard to the protection of property rights, then I am the Queen of the May. And I would remind all of my colleagues that this is going to subject the United States to enormous liability for being sued for having interfered with the rights under contract and for having interfered with the property rights of COMSAT. Imagine how we would run a corporation if we were afflicted with that kind of provision. Let me just read something else.

PanAmSat, one of the well-known fat cats that is at the bottom of this mess and which is a major pusher of this legislation, sued COMSAT. A Federal judge considered all the pleadings, all the facts, and he decided in favor of COMSAT. Why? He said, and this is a quote from the judge, "Moreover, although the record does not reflect that COMSAT entered into long-term contracts with many common carriers, nothing in the record suggests that COMSAT secured any of the contracts by means of any anticompetitive act against PAS. On the contrary, the record suggests that, for their own reasons, the common carriers elected to secure long-term deals with COMSAT only after considering and rejecting offers from PAS."

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

Mr. DINGELL. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I am confused. I just heard from the chairman of the committee that this was like that meal on the British airlines, he either had to eat or not eat; there was no other option.

Is my colleague telling me that the people who signed these contracts had other options to sign with PanAmSat and turned them down?

Mr. DINGELL. Mr. Chairman, reclaiming my time, the answer to the question is yes. The answer to the question is also that the Federal judge involved here considered the questions in a much more thoughtful, careful, and responsible way after hearing all the pleadings than did my beloved friend, the chairman of the committee, who has not apparently been privy to the kind of information that the judge was.

Here we had a fair hearing. Everybody had a chance to have their say, not something which we have seen here.

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

Mr. DINGELL. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I know the gentleman would not want to mislead the committee.

On page 28, section 642 of the bill, it says that they have a fair opportunity at their discretion for a reasonable period of time to renegotiate those contracts, a one-time deal.

Mr. DINGELL. Mr. Chairman, reclaiming my time, every year.

Mr. BLILEY. Mr. Chairman, If the gentleman would further yield, no, not every year.

And on page 62 of the report it repeats it again, a one-time opportunity to renegotiate contracts of commitments on rates, terms, and conditions.

Mr. DINGELL. Mr. Chairman, the staff of this committee has been very good in changing the language of the bill in the report, something which regrettably they are not capable of doing.

What we have here before us is a very simple matter. They are interfering here under this legislation with the rights of contract. They are interfering here with property rights. And they are going to have a liability for the taxpayers of this country under the Tucker Act, and it is going to be billions of dollars.

They also have before them a case where the matters have been considered by a Federal judge, having heard from PAS, having heard from COMSAT, having heard all the facts. He said, people go to COMSAT after they have heard from the others and given them a full opportunity to compete.

Ms. ESHOO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the Tauzin amendment.

Mr. Chairman, first I think that, for all of our House colleagues, there was a statement that was made earlier that this is a very complex issue, and we owe it to our colleagues that were not part of the debate on the Committee on Commerce to offer them some clarity.

What is this amendment about? This amendment is about a provision in the bill entitled "fresh look," and what it would do is strike it; it would take it out of the bill. Now, why did the committee pass the bill out to the floor with this particular component, this element of the bill, and why did we find it important?

First of all, "fresh look" is a critical component of the bill. Why? Because it is what will help consumers realize the benefits of competition and doing away with a monopoly. The service providers are going to have to be able to take full advantage of direct access to INTELSAT so that the bill provides consumers what we are promising them, and that is competition.

It does not do any good to say to companies, "Okay, go ahead, negotiate the best deal possible" if, in fact, they are still locked into something that they agreed to when they were still a monopoly. And so "fresh look" is a provision in the bill that will allow companies, one time only in the year 2000, to take a "fresh look" and to move on from there into a procompetitive environment and leaving the monopolistic environment behind.

"Fresh look" will enable companies to take advantage of privatization, which is really what the underpinnings of this legislation are all about. So again, if my colleagues support privatization and procompetition, then they will vote "no" on this provision.

"Fresh look" is necessary. We must be able to take a fresh look in order to be competitive. I urge my colleagues to vote "no" on the Tauzin amendment.

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

Mr. Chairman, I rise in very strong support of the Tauzin amendment. I was also supportive of the amendment offered by my colleague, the gentlewoman from Maryland (Mrs. MORELLA).

I rise in support of this amendment because I believe that a contract should have the highest regard by this body. In fact, the Constitution prohibits us from abrogating contracts.

The fact of the matter is, as the gentleman from Michigan (Mr. DINGELL) and as the gentleman from Louisiana (Mr. TAUZIN) and others have pointed out, the judge found that there were alternatives. In other words, there were

parties with whom the parties dealing with COMSAT could have dealt with alternatively.

The judge found that for economic reasons, obviously of their choosing, they did not do so. In fact, they made an independent judgment to enter into a contract. They may not like that contract now. This is not an unusual circumstance.

On the Subcommittee on Treasury, Postal Service, and General Government, for instance, on the telephone contract that the Federal Government had, we were constantly looked to to abrogate the contract and allow new competition prior to the term of the contract expiring. So this is not unusual. Parties to contracts often come to the Congress or to the legislatures and seek for a new deal or, as this amendment says, a "fresh look."

Well, "fresh looks" are nice. "I liked the contract a year ago, but I do not like it now. So how about a fresh look, troops? Let us look at it one more time, freshly." Well, the person that does not like the contract may think that is very nice, but the other person with whom the contract was made may think to themselves that is a jaundiced look, not a fresh look; it is a look that they have taken advantage of the contract for as long as they determined was advantageous to them, but now, "Guess what? I want to change the deal."

Mr. Chairman, I would hope my colleagues would support the Tauzin amendment. This "fresh look" provision that is contained in the bill is not fair. It is not fair because it says that the contracts that were entered into freely, as the judge said, do not need to be honored.

It is my understanding from the gentleman from Louisiana (Mr. TAUZIN), and I do not purport to be an expert on the technical nuances of this particular piece of legislation, but I am informed that in fact these contracts have a term. They are not unlimited. These parties are not bound by these contracts in perpetuity.

In point of fact, the contracts have a term that will end; and at that time, under the contract, as is fair and every American understands, at that time the parties will have the opportunity to have a fresh look, not legislatively mandated but mandated by the agreement of these two parties in their contract.

The sanctity of contracts is critical to the free market system in which we flourish. The sanctity of contracts is one of the things, as a lawyer, we learn to honor from the very beginning, which is why it is so important to make sure that a contract was in fact entered into, because once entered into, it cannot be abrogated by either party without damages occurring.

Again, that is another reason, Mr. Chairman, we ought to adopt the Tauzin amendment and reject the provision of the bill. Why? Because these are private stockholders, who have invested their money, who are going to sustain a loss if these contracts are abrogated; and, if so, we may well subject the Government to over a billion dollars in damages I am informed. Think of that, over a billion dollars in damages. Why? Because this contract sought to give relief to parties who voluntarily entered into a contract and who now want a fresh look.

□ 1415

Mr. Chairman, we can change the policy, but we ought to change it prospectively. We ought to say we are going to change the rules and when the contract is over, you are going to play under these new set of rules. But the parties that entered into a contract under a set of rules will play under those rules for the term of the contract. That is elementary, my Dear Watson, if I can coin a phrase.

I would hope that this amendment would pass, that it would pass handily, and we would send a message to those who enter into contracts. As long as those contracts are entered into freely, they will be honored by this legislative body.

Mr. WELDON of Florida. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in opposition to the Tauzin amendment regarding fresh look. H.R. 1872 holds much promise for expanding consumer choices and lowering consumer costs of international satellite communications. This amendment would jeopardize all of that. A key reason H.R. 1872 will benefit consumers is that it will end the current monopoly that COMSAT enjoys by statute as the sole reseller of INTELSAT and Inmarsat services in the United States. Currently users of these satellite systems have no choice but to go through COMSAT to purchase INTELSAT and Inmarsat services. In some cases, such as some telephone and television services, there are few or no choices except to use the INTELSAT and Inmarsat satellites.

A recent study estimated that U.S. customers would save $1.5 billion over 10 years once monopoly access to INTELSAT and Inmarsat ends. H.R. 1872, the bill before us, permits COMSAT's customers to renegotiate their contracts once the monopoly is ended. Fresh look is an established way to transition from a monopoly market to a competitive market. The FCC has applied the fresh look policy before when new competitive choices were made available to customers. It has allowed customers to renegotiate long-term contracts entered into when no competition existed.

Today COMSAT is the sole U.S. reseller or distributor of INTELSAT and Inmarsat services. Each and every user of those satellite systems in the United States has no choice but to enter into a contract with COMSAT for these services. These are long-term contracts. The bill will end this monopoly. Thus, it is critical to creating the new competitive environment that customers be given the opportunity to renegotiate, take a fresh look at the long-term contracts they entered into when the statutorily created monopoly was in force. Without fresh look, these customers will be locked into long-term contracts and denied the benefits of the new competitive choices. Competition will truly be meaningless if all customers are locked into long-term contracts.

I know there has been a lot of smoke generated about this and how this would operate as a taking of property. I do not believe that giving customers an opportunity for a fresh look at their contracts would result in such a taking. This is not a new policy. The FCC has applied it successfully in several occasions.

Moreover, the courts have never accorded contracts the status of protected property because contract rights are subject to changes in the law. COMSAT is a creature of Congress and Congress expressly retained broad rights over COMSAT and the right to change the 1962 law.

Fresh look does not punish COMSAT. COMSAT and its customers are free to continue their contracts. As long as COMSAT provides high quality services at competitive rates, underlying competitive rates, it has nothing to fear. Customers will be the real winners here and whether they stay with a newly competitive COMSAT or choose a new alternative will be their choice.

Fresh look is pro-consumer. It gives users the right, not the obligation, to renegotiate their contracts in light of the new competitive choices. It is essential to end the monopoly. I urge my colleagues to vote against this amendment.

Let me just add. I was very pleased to see this, a letter from one of the satellites users, CSX and its subsidiary Sea-Land, a large maritime shipping company, recounting its use of fresh look regarding 800 number portability. When fresh look was implemented for 800 numbers, CSX saved $4.5 million per year. CSX wrote the gentleman from Virginia (Mr. BLILEY) stating, "We look forward to using the similar opportunity as provided for under H.R. 1872 so that we can pay competitive prices, rather than monopoly prices, for satellite services."

Any claim that users do not want fresh look is false. All Members should vote against this amendment. It will harm consumers and prevent competition from developing.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in very

strong support of the Tauzin amendment. It is fair, it makes sense, and it may well save us over a billion dollars; that is, the taxpayers.

Fresh look really is not fresh look. It is really a fresh theft, as has been stated, because it is going to abrogate those contracts that had been willfully signed by an American company and its customers, I really believe, and others have felt the same way, legal authorities, that it is going to subject the U.S. Government to a successful takings claim.

The opponents of COMSAT have said that it has locked up the market with long-term contracts and so therefore the customers should be afforded an opportunity unilaterally to breach their contract to take a fresh look at any available competitor in the marketplace. This is not a sound idea. It is wrong. Therefore, the Tauzin amendment will eliminate the unconstitutional provisions that would abrogate COMSAT's contracts, which are property, and it would preserve the integrity of COMSAT's carrier contracts. Those contracts were entered into voluntarily by COMSAT and the largest international carriers. The government may not nullify the express terms of a company's contractual obligations without compensation. This amendment with these provisions makes sense, it is appropriate, and it will save taxpayers money.

Mr. Chairman, I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me point out that this notion of fresh look is already in the law. The notion of fresh look is already in the law. It is a remedy that already exists for the parties. If they think they have a contract that was entered into where they did not really have a choice, like some of these proponents of the bill have pointed out, then they can go to the FCC, go to court and have that contract abrogated. They can do that today. In fact, as I said, PanAmSat tried. PanAmSat is a private satellite corporation owned by Hughes Satellite. They went to court and argued that some of the contracts that COMSAT had signed were in fact entitled to a fresh look. The court threw them out on summary judgment. They did not even have a trial. The court threw them out on summary judgment and said, "There are no facts here to indicate that your contracts ought to be abrogated. In fact if you signed it, you ought to live by it and you ought to honor it."

Why should we in this Congress overturn that court now and say it is okay for people to get out of their contracts? Did they have other choices? Yes. The court so ruled that they actually rejected other choices before signing up with COMSAT. Did they sign it willfully for their own reasons? The court so ruled. Were there other companies they could have gone to?

In 1996, the FCC ruled that there was sufficient competition in the space segment service market and ruled in fact that "we find substantial competition in that marketplace with the introduction of satellite cable systems that compete with INTELSAT." The companies who signed these contracts had other choices. They rejected them. They signed with COMSAT. Now they would like to get out of them. They went to court to say, "Let us out of these contracts." The court threw them out on their ear and said, "You're not even entitled to a trial. You're out on summary judgment. Your contracts are going to be honored by this court." But not by this Congress? Your contract is your word, your bond, you are going to live by it. But not by this Congress? What right do we have under our Constitution to tell some people it is okay to get out of your contracts? When you sign a contract to get some services for your company, would you like it if I told those people who signed up with you they can get out whenever they want? You would think I am out of bounds, and I would be. And Congress would be out of bounds if we in fact abrogated these contracts. I urge my colleagues to adopt this amendment.

Mr. DINGELL. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, what happens every time this provision comes into play is that the competitors, the providers, the suppliers and the customers of COMSAT then get together and they renegotiate the contract, and COMSAT has got to constantly reduce rates, reduce rates, reduce rates.

As the distinguished gentlewoman has said and as the gentleman from Louisiana has said, COMSAT now is subject to fresh look. The FCC about a week or 10 days ago took a look at this. What did they find? First of all, they found that COMSAT is not a dominant carrier. They are a nondominant carrier.

The CHAIRMAN. The time of the gentlewoman from Maryland (Mrs. MORELLA) has expired.

(On request of Mr. DINGELL, and by unanimous consent, Mrs. MORELLA was allowed to proceed for 1 additional minute.)

Mrs. MORELLA. Mr. Chairman, I continue to yield to the gentleman.

Mr. DINGELL. Mr. Chairman, they also did something else. They looked at whether or not the Commission should utilize this extraordinary remedy of fresh look. They said it was not necessary. They said it was not proper. They said it was not justified. Yet here we in the Congress, with no hearings, with no information, simply with power for prejudice and enormous lobbying effort by COMSAT's competitors are going to simply put into place this fresh look provision. And we are going to subject our constituents and the taxpayers to billions of dollars in liability for our stupidity.

I thank the gentlewoman for yielding.

Mrs. MORELLA. Mr. Chairman, I agree with the two speakers that just preceded me on my time, and I urge this body to vote for the Tauzin amendment.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words. I think this is a personal record. I do not think I have ever spoken on a bill on the floor of this House three times in one afternoon, but I am going to do that because some of the debate, some of the comments by other Members have done it at least three times as well.

Just going through what the bill does and the present reality in the market I think is critical for everyone to have a very keen understanding before they vote. The legislation absolutely provides that people who have entered into a contract in 2000 would have an ability, a one-time ability to renegotiate that contract.

Let us talk about why people entered into those contracts. They entered into those contracts because they had no choice. Today if you want to call from Washington, D.C. to Africa, there is only one way to do it, and that is through COMSAT. I do not know what definition of monopoly my colleagues are using, but that is a definition of monopoly. We keep hearing the fact, we have two sides of this debate, some saying there is a monopoly, some saying there is not a monopoly. Let me again talk in specifics. There are locations where there is underground cable. For instance, if you want to call from here to England, you can actually go through an underground cable. So in that market there is competition. But for a significant part of this market there is no competition at all but a government-granted monopoly that we as the United States Congress granted.

Let me talk about abrogating contracts. It is a very serious thing that we ought to think about. In the State of Florida that I represent, there are only two times in the Florida judicial system that there is a 12-person jury, when the death penalty is a possibility or when you are going to be taking someone's property. If someone has a potential penalty in Florida of life imprisonment, it is a six-person jury. But in Florida if we are going to take one foot of your property, it is a 12-person jury.

□ 1430

So let me tell my colleagues something. I come from a State where we take property rights very, very, very seriously. This is not an issue about property rights and taking. It is an

issue of how are we going to implement a new competitive paradigm in telecommunications. And again the facts are that we have done this before. And for the third time, I am going to mention what we have done before; that when AT&T was broken up, the exact same procedure was used. Contracts that were in place were allowed to be renegotiated because of why and how those contracts were implemented.

Mr. Chairman, I urge the defeat of the amendment and passage of the bill.

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

Mr. DEUTSCH. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I just want to point out to the gentleman that not only can someone call Athens by many other providers other than COMSAT, COMSAT is not even a dominant carrier to Athens.

Mr. DEUTSCH. I said Africa.

Mr. TAUZIN. Africa?

Mr. DEUTSCH. Africa.

Mr. TAUZIN. To Africa, to many countries in Africa. They have fiberoptic services to many countries that compete with the satellite services.

Mr. DEUTSCH. As my colleague knows, again my understanding is that on thin routes to Africa they are not classified as nondominant.

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

Mr. Chairman, while I appreciate the rationale behind the "fresh look" provisions of this bill and I agree that the privatization we seek must be pro-competitive, it is my view that the abrogation of private contracts called for by this bill is simply not justified by the admittedly worthy goal of accelerating the transition to a more competitive marketplace. It is not appropriate in my opinion for this Congress to allow corporations to simply walk away from legal contracts because we believe that there may have been better deals for them in the offing. With privatization the transition to a competitive market will come soon enough, and these contracts will expire and be renegotiated in the normal course of business without the kind of congressional interference in the process.

My sense is that we should go very, very slowly when Congress is dealing with the issue of abrogating contracts. This is a very serious issue. Those of us who studied contracts in law school learned, probably on the first day, that contracts have a particularly meaningful role in our business world and that those contracts and particularly the breaking of those contracts should be taken very, very seriously and with a great deal of caution, particularly by the national legislative body, the Congress of the United States.

We should allow the marketplace to work its will in due course without resorting to heavy-handed tactics. After all, the bill is premised on the idea that competition will cause market participants to realize new efficiencies and alternate ways of doing business. The incentives are already there for telecommunication firms to seek out the most efficient access to international communications. And while it may be tempting, Mr. Chairman, to try to jump start the competitive process through these "fresh look" measures, I think we are getting a little ahead of ourselves. We should allow the private sector to work its will and without abrogating the privacy of these contracts.

Mr. Chairman, we can argue as to whether or not free agency has ruined baseball, but the truth is that telecommunication companies today are already free agents without "fresh look."

I encourage support for the amendment to remove these provisions.

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

Mr. OXLEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I just wanted to congratulate the vice chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection for his excellent statement just now, not only in support of the motion that will not abrogate contract rights, indeed that is something we learned in law school, but to point out that the opinion of the Washington Legal Foundation went on to say that if we did that in this bill, that would amount to the most sweeping congressional abrogation of private contract rights of a single company without any judicial determination of wrongdoing.

That is unprecedented in U.S. history. Not only are we doing something that I think we learned is wrong in law school, but Congress would be doing something, according to this report, that is unprecedented in terms of its sweep, in terms of how many contracts we would abrogate and declare illegal when the courts have upheld those contracts up until this date.

I want to thank the vice chairman for his excellent statement and encourage him in support of this amendment.

Mr. OXLEY. Mr. Chairman, I thank the gentleman from Louisiana for his comments and would simply point out that in this kind of area, we ought to walk very, very softly before we consider these kinds of abrogation of contracts. This is very serious business, and I would caution that, in fact, the marketplace is working, that those telecommunication companies out there will be able to renegotiate, will be able to sign new contracts in the due course of business. We ought not to interfere with that right of contract. It would be a serious mistake on the part of this Congress.

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

Mr. Chairman, as my colleagues know, one of the things, I just recently came back from a trip to Chile.

Now we think Chile is a Third World nation stuck down the end of the Western Hemisphere. Mr. Chairman, one of the interesting things was we went to make a phone call in Chile. If we wanted to call the United States, we could call the United States cheaper from Chile then we could from the United States back to Chile.

Now we always thought we had the best competition, the best system, the best service and the cheapest rates. If we wanted to call Japan from Chile, we have the best rates from Chile to Japan instead of Japan to Chile. If we wanted to call Argentina, which is right across the mountains maybe 45 miles away from Santiago into Argentina, rates were cheaper if we called from Chile into Argentina. Why? Because there are eight telephone companies, all with individual contracts. If we sign up for one phone company and somebody got a better price, we can arbitrate that contract and we can get with the next company. Why? Because they have the ability to hook up with those satellites, there is competition up there, and they go for the best price.

Now we may want to protect some entities that made contracts before this system changed, but the system has changed. Competition is there. The world is opening up. And all we are saying is those companies that were tied into the old contracts under the old system before the universe changed, let them step back, let them take a fresh look, let them renegotiate, and let consumers win, because when we come down to it, "fresh look" is a simple concept.

I say let consumers, that is right, consumers, negotiate their contracts with COMSAT once competition is permitted. It is a commonsense system, it is a situation that we ought to reject this amendment and stay with the good work of the chairman of the committee.

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

Mr. HASTERT. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I want to correct a statement the gentleman from Michigan in his previous statement said, that we had no hearings on "fresh look." We had a hearing on September 30, 1997, in the Subcommittee on Telecommunications Trade, and Consumer Protection, and indeed Mr. Jack Gleason from NTIA testified for the administration, testified in favor of "fresh look."

Now let us talk about "fresh look." "Fresh look" gives a customer the choice to renegotiate that contract once they have alternative providers to

choose from. Now sure, AT&T has a cable, Sprint has a cable, MCI has a cable, but they have to sign up with COMSAT to get to INTELSAT because of redundancy. If anything happens to their cable, they have to have a backup, and the FCC has used "fresh look" on several occasions, most recently when implementing the Telecommunication Act of 1996, and no one ever thought of taking suit against them when they did.

We had "fresh look" occurring annually in one version of this bill, but to accommodate the concerns of the gentleman from Louisiana (Mr. TAUZIN) we revised the "fresh look" provision to tie it to the date of direct access. Direct access means allowing, for the first time, competition for access to INTELSAT and Inmarsat in the U.S., and if there is not the opportunity to take advantage of it, direct access does not mean much. "Fresh look" will allow customers locked into those long-term take-or-pay contracts, when they had no choice if they wanted to play in the game but to sign those contracts, the advantage of new competitors. And COMSAT will have the opportunity to renegotiate with them, and I suspect that will keep most of them.

It is the job of elected representatives, not the FCC, to make sure that this happens. Moreover, the FCC may decide it is not worth fighting COMSAT in court, and since COMSAT sues at the drop of a hat, they may be able to fend it off. It is up to the FCC to implement it, but we need to tell them to do so.

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

Mr. HASTERT. I yield to the gentleman from Louisiana and really congratulate him because, as my colleagues know, together with the chairman and this gentleman, he brought an important issue before us, something that needs to be moved forward and talked, and I think we have to do it with a balance, and I would be happy to hear what the gentleman has to say.

Mr. TAUZIN. Mr. Chairman, I wanted to point out the gentleman from Michigan merely said that we did not have hearings on these contracts that we are abrogating, not on the issue of "fresh look"; and secondly, to point out when the administration did testify on "fresh look," here is what they said.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HASTERT) has expired.

(On request of Mr. TAUZIN, and by unanimous consent, Mr. HASTERT was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, here is what the administration said. It said that even if a fresh look at INTELSAT and Inmarsat services, ordered hypothetically, were to allow the signatures and direct users to get a better deal, it is unlikely that consumers would benefit; and they said for the same reason that competition already exists at "fresh look" at INTELSAT and Inmarsat contracts, in those countries, is unlikely to benefit consumers significantly. It seems to me they were testifying against the use of "fresh look," not for it.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is a very important amendment. We have to understand that the whole field of telecommunications has been revolutionized since the early 1980s. We all operated in the United States and around the globe under the presumption that a monopoly was natural, that there was only one place we could go for everything that we expect as services in the telecommunications field. All of that has changed since the early 1980s.

For example, in 1982 when AT&T was broken up, it was the largest company not only in the United States but in the world. We had one telephone company. There was no Bell South, there was no NYNEX. MCI and Sprint were tiny little companies. No U.S. West, no Southwestern Bell; it did not exist. We had one company, one-stop shopping. We all thought it was a natural monopoly.

When the Justice Department broke it up even as Congress was beginning to move to break it up, we said to every customer in America, part of that consent decree, we can choose another long distance telephone company if we want, we can have a fresh look. We do not have to be tied into any long-term contracts we had with AT&T. We are starting a new world, one in which we are encouraging competition in the marketplace.

Now this phenomenon manifests itself over and over again as we break down these monopolies. It happens in all kinds of service areas. And the FCC has taken the precaution where necessary in other areas in order to accomplish this goal. For example, when the FCC in 1992 ordered expanded interconnection rules and allowed local telephone competitors greater ability to compete for special access services, the FCC allowed customers who typically had signed contracts for 6, 7, 8 or more years the opportunity to renegotiate their terms or switch to new competitors in the marketplace without termination penalties, because there was now competition in this marketplace. And maybe something that is even more familiar or typical in ordinary American life; that is, when people dial 1-800 The Card for American Express or 1-800 Flowers, and a customer has ever dealt with them over the years, they might have said, well, that is a good service; but what if I switch from AT&T over to MCI? Well, what we said through the FCC was they could take their number with them. There was portability. They were not going to be locked into AT&T. We had to create some means by which the newer companies could compete against the old monopoly.

Now that is really intended to open up opportunities for dozens, for hundreds of new companies to get in and to compete, to break down the old models. We are not the Soviet Union, we are not Japan, we are not Germany. We wanted to be number one, and we wanted dozens, hundreds of companies out into these fields.

□ 1445

That is what is making us special in the world right now.

As a matter of fact, if we look back at the 1980s, after the tearing down of the Berlin Wall, the breakup of AT&T might be looked back at historically as maybe the greatest and most important decision that was made in our country, because we were opening up opportunities for customers to have different choices and for more competitors to get into the marketplace. And the core, central part of looking at this "fresh look" issue is that because COMSAT has been a monopoly, that when the monopoly goes away, the customers should be freed up to look for better opportunities, once. Take their one-time-only opportunity to look around, shop around.

However, here is what we know: that because competitors to COMSAT have never had direct access to INTELSAT, according to the Federal Communications Commission, there has been a 68 percent markup in the price charged by INTELSAT, 68 percent. Now, when direct access is allowed, should not these customers who have been locked into the old monopoly have the freedom of going out and getting the best deal in the marketplace? Do we not want every company in the United States to have the lowest possible cost in all of their telecommunications services, so whatever they do inside of their company is much more competitive as they sell their product around the world.

That is what this is all about, after all, lower energy prices, lower electricity prices, lower telecommunications prices; it is the cost of hundreds of thousands of companies in America in terms of the product they are trying to make. We are trying to lower the cost here.

Give them a fresh look, let them go out. If NBC or CNN or any other company in the America that buys their telecommunications services wholesale who wants to get a fresh look, why should they not be allowed to get the benefit of this policy?

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. MARKEY) has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MARKEY. Mr. Chairman, this is a one-time-only, free-agency ability.

Mr. Chairman, for many years, major league baseball did not allow players to go out and contract with other clubs. Players were locked in. They might have signed a contract with the team they were with, like the Red Sox or the Yankees, in the 1930s and 1940s, the 1950s or the 1960s, but they were tied to them. A player could not sign with another team. But when free agency came around, you were free to look around; then a player signed a new contract and was bound to that contract.

We have to have one-time-only free agency for all of these companies in America that have been tied into the monopoly. Then we can say to the rest of the world, tear down those barriers to the entry of American companies into free competition across the globe. This is the other wall that has been up to Americans going across the globe. The Berlin Wall came down; so too must these telecommunications barriers, because that is the area where America has to be number one if we are going to get the benefits of the post-Cold War era.

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

Mr. Chairman, not withstanding all of the grand rhetoric that my colleague, the gentleman from Massachusetts (Mr. MARKEY), just gave us, this issue comes down to perhaps two major points.

Do we believe that COMSAT is today monopolizing the industry? Mr. Chairman, I want to include for the RECORD the FCC ruling of April 24, 1998 that says, "The commission declares COMSAT nondominant in competitive markets." The commission says, it "granted the request of COMSAT Corporation for a reclassification as a nondominant carrier in five product markets, which account for 85 percent of COMSAT's INTELSAT revenues."

Now, will my colleague from Massachusetts agree that what is being done here is the equivalent of Congress going back and looking at Microsoft and saying, oh, Microsoft, you are a monopoly, and then mandating that any contract that Microsoft would sign would be open to renegotiation. I do not think Members of the Congress would agree to do that. I believe no United States court would allow the abrogation of Microsoft's private contracts, and I believe the U.S. courts will not let stand the abrogation of COMSAT's private contracts.

We took an oath. When we came into Congress, we took an oath to abide by the Constitution. We are talking about the fifth amendment here.

I can show my colleagues example after example where COMSAT is not the monopoly that my good friend from Massachusetts portrays it to be. But let me say in all deference now to the chairman, I am on his bill, his original bill. I think he is making a courageous stand to deregulate an industry that should have been deregulated some time ago. But notwithstanding that, this bill can be improved by the Tauzin amendment, and that is why I stand in support of it.

Mr. Chairman, I include for the RECORD the FCC ruling of April 24, 1998:

COMMISSION DECLARES COMSAT NON-DOMINANT IN COMPETITIVE MARKETS

The Commission has granted the request of Comsat Corporation for reclassification as a non-dominant common carrier in five product markets, which account for approximately 85% of Comsat's INTELSAT revenues. Specifically, the Commission found Comsat non-dominant in the provision of INTELSAT switched voice, private line, and occasional-use video services to markets that it determined to be competitive. It also found Comsat non-dominant in the provision of full-time video and earth station services in all markets. In the markets where Comsat has been reclassified as non-dominant, Comsat will be allowed to file tariffs on one day's notice, without economic cost support, in the same form as filed by other non-dominant common carriers, and the tariffs will be presumed lawful. By virtue of finding Comsat non-dominant in these markets, the Commission is eliminating rate of return regulation in these markets.

The Commission also indicated it expeditiously would initiate a proceeding to explore the legal, economic and policy implications of enabling users to have direct access to the INTELSAT system. Approximately 94 other countries permit direct access to the INTELSAT system.

The Commission denied Comsat's non-dominant reclassification request with respect to switched voice, private line and occasional-use video services to non-competitive markets where it found that Comsat remains dominant. It also denied Comsat's request that the Commission forbear under Section 10 of the Communications Act from enforcing the Commission's dominant common carrier tariff rules in non-competitive markets. The Commission considered but rejected Comsat's three-year "price cap" and "uniform pricing" proposals for these markets, and found that Comsat did not satisfy the statutory requirements for forbearance relief under the circumstances. The Commission indicated, however, that it would favorably consider in its analysis of any forbearance request a commitment by Comsat to (a) allow U.S. carriers and users to obtain Level-3 direct access to the INTELSAT system and (b) make an appropriate waiver of its INTELSAT derived immunity from suit and legal process. Such actions would promote competitive market conditions in the INTELSAT markets in which Comsat remains dominant.

The Commission also indicated that it will consider replacing rate of return regulation for Comsat's dominant markets with an alternative form of incentive-based regulation and, as part of its reclassification decision, the Commission issued a Notice of Proposed Rulemaking seeking public comment on its tentative conclusions that any alternative incentive-based regulation plan to be adopted should (a) enable users on non-competitive routes to benefit from competitive rates; (b) remain in effect indefinitely; and (c) allow users to benefit from reduced rates due to increases in efficiency and productivity. Comsat will be subject to alternative incentive-based regulation once such regulation is adopted in this proceeding.

Finally, the Commission found that Comsat's continued dominance in the provision of switched voice, private line and occasional-use video services to non-competitive markets was an insufficient basis for continuing to require structural separation between Comsat's INTELSAT services and other activities. It concluded that the costs of imposing such a requirement would exceed any potential benefits to competition. The Commission granted Comsat's request for the elimination of structural separation for its INTELSAT services because structural separation is no longer necessary to safeguard Comsat's competitors from Comsat leveraging its monopoly jurisdictional services to gain an advantage in competitive markets in which it is operating.

The 63 countries in which Comsat will continue to be considered dominant for switched voice and private line services are: Algeria, American Samoa, Angola, Armenia, Azerbaijan, Benin, Bolivia, Bosnia & Herzegovina, Botswana, Burkina, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Cote d'Ivoire, Estonia, Ethiopia, French Polynesia, Gabon, Ghana, Guinea, Iran, Iraq, Jordan, Kenya, Lesotho, Libya, Lithuania, Malawi, Mali, Maritime-Atlantic, Maritime-Pacific, Mauritania, Mauritius, Federated States of Micronesia, Midway Atoll, Moldova, Mozambique, Namibia, Nauru, New Caledonia, Nicaragua, Niger, Northern Mariana Islands, Pacific Islands (Palau), Paraguay, Rwanda, Saint Helena, Senegal, Sierra Leone, Somalia, Sudan, Suriname, Swaziland, Tanzania, Togo, Tonga, Turks and Caicos Islands, Uganda, Western Samoa, Zaire, and Zambia.

The 142 countries in which Comsat will continue to be considered dominant for occasional-use video service are:

South America: Columbia, Grench Guiana, Guyana, Paraguay, Suriname, and Trinidad & Tobago.

Central America/Caribbean: Anguilla, Antigua, Aruba, Bahamas, Belize, Bermuda, British Virgin Islands, Cayman Islands, and Chagos Archipelago, Costa Rica, Dominica, Dominican Republic, El Salvador, Gibraltar, Grenada, Guadeloupe, Guatemala, Haiti, Honduras, Martinique, Montserrat, Netherlands Antilles, Panama, Saint Kitts & Nevis, Saint Lucia, Saint Vincent, and Turks & Caicos.

Western Europe: Cyprus, Greenland, Iceland, Malta, and Norway.

Eastern Europe: Albania, Belarus, Bulgaria, Czech Republic, Estonia, Lithuania, Macedonia, Moldova, Russia, Serbia, and Slovenia.

Middle East: Bahrain, Iran, Israel, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen.

Africa: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Dem Rep Congo, Djibouti, Egypt, Eq. Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Saint Helena, Sao Tome, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zaire, Zambia, and Zimbabwe.

Central Asia: Afghanistan, Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgystan, Mongola, Myanmar, Tajikistan, Turkmenistan, and Uzbekistan.

South Asia: Bangladesh, India, Maldives, Nepal, Pakistan, and Sri Lanka.

Far East: Brunei, Cambodia, Laos, Malaysia, North Korea, South Korea, Thailand, and Vietnam.

Pacific Rim: American Samoa, Fiji, French Polynesia, Macau, Marshall Islands, Micronesia, Midway Islands, Nauru, New Caledonia, New Zealand, Palau, Papua New Guinea, Tonga, Vanatu, and Western Samoa.

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

Mr. STEARNS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank my friend for yielding and I thank him for his comments.

Mr. Chairman, let me say too, this is not about whether we want to break up the old monopoly of INTELSAT and Inmarsat, these multination, governmentally owned cartels. This is not about that. We all agree that that ought to happen. This is not about that.

This is simply about whether we in Congress are going to order the abrogation of contracts to an American company that have been tested in court and found to be voluntarily entered into when the people who entered those contracts had other options.

There are several questions we ought to ask: Did they have other options? The answer is yes. The court found in summary judgment, they could have signed with PanAmSat, they could have signed with Loral, Teledesic, Columbia, Meridian, ELLIPSO. They could have signed with many cable companies that offer fiberoptic cable across the Atlantic. They chose to sign with COMSAT voluntarily.

The second question that we should answer is, is, in fact, the "fresh look" applicable to these contracts? The answer is yes, it is already the law. Anybody can go test them in court.

The third question we should answer is, once they have been tested in court and found to be valid, voluntary contracts, should we in Congress substitute our judgments for the court's without a hearing on these contracts even, and declare that they can be abrogated? I suggest the gentleman put his finger on it.

We took an oath. If there is something that makes us special, I say to the gentleman from Massachusetts, it is that we took an oath to live by a Constitution that sets the rules for all of us, and the rules are that when one signs a contract voluntarily, one has other options, one was not coerced, then that person ought to live by that contract. It is called honor. And we in Congress ought to have enough honor to let the contracts signed in America be honored by the parties who signed them and not abrogate those contracts by congressional fiat. That is what this is all about, our oath under the Constitution, and the honor of the contracts and the parties who signed them, voluntarily, tested in court, proven in court to be voluntary, whether or not those contracts will be honored.

This is a good bill, but this amendment improves a good bill by taking out a feature that I think is horrible, and my colleagues ought to think is horrible. No Member in Congress ought to go down to this floor today and vote to abrogate private contracts that have already been tested in court and proven to be honest and honorable and voluntary, and if my colleagues vote to abrogate contracts, I suggest that my colleagues have violated their oath to uphold the Constitution.

Mr. STEARNS. Mr. Chairman, let me conclude by saying, I think if we listen to this debate, we will realize that COMSAT faces significant competition, competition from underseas fiberoptic lines for voice, video and data service. In fact, many argue that fiberoptic lines are a more productive infrastructure than satellites because of their reliability and because of their greater capacity.

So after making these points, I think the Members have to decide if they think COMSAT is a monopoly, that is fine, but many of us have researched this and we do not think COMSAT is a monopoly any longer, and so that is why I support the Tauzin amendment.

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

Mr. Chairman, I rise really in support of the Tauzin amendment. If we go back to 1984, at that point the marketplace opened up. If we wanted to go pre-1984 and say we really need to take a fresh look, then perhaps this bill, as written, would make some sense.

But the point is that in 1984, competition was arrived at. Other satellites were out there, there were other opportunities. So the concept of "fresh look" may make sense in some situations, but it does not make sense in 1998 in this instance.

The idea that COMSAT should now be forced to renegotiate its contracts might make sense if COMSAT were a true monopoly, but as some have spoken before today, and I would like to add to it, they are not a monopoly. In fact, the FCC has declared COMSAT is a nondominant carrier in 85 percent of the business they do. Furthermore, there are a lot of competitors to INTELSAT satellites. COMSAT now carries 21 percent of the voice traffic. That is down from 70 percent just a few years ago, and it does not qualify as a monopoly. In video, COMSAT has only 42 percent of the market share. Again, hardly monopolistic when, a few years ago, they had almost 90 percent of the video marketplace.

In addition, if we were to require COMSAT to reopen all of its contracts, contracts that were legally negotiated in good faith, remember, we are then opening the Federal Government up to what I think are substantial damages. Now, do we want to send this bill before the taxpayers in our districts? Do we want to make them liable for the decision that we make here today? We should not try to privatize an international body, we should not try to privatize a communications industry in other countries by holding a gun to the head of an American company, a company that negotiated these contracts, that made business decisions based on requests of this Federal Government.

We asked them to do this. Imposing harsh sanctions on a U.S. company in order to get other countries to do what we want them to do does not make any sense at all.

I would go back to my comments a little earlier today about Cleavon Little holding a gun to himself in the movie "Blazing Saddles." That is what we are doing. We are holding a gun to the head of an American company and telling the rest of the world, if you do not do what we want you to do, we are going to pull the trigger.

"Fresh look" is a harsh sanction on a U.S. company. I say that we should support the Tauzin amendment and strike "fresh look" from this bill.

The CHAIRMAN (Mr. SNOWBARGER). The question is on the amendment offered by the gentleman from Louisiana (Mr. TAUZIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TAUZIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 80, noes 339, answered "present" 2, not voting 11, as follows:

[Roll No. 128]

AYES—80

Baker	Furse	Obey
Barcia	Gekas	Oxley
Barrett (NE)	Gilchrest	Pascrell
Bartlett	Hall (TX)	Peterson (MN)
Berry	Hamilton	Petri
Bilirakis	Hansen	Pombo
Boehner	Horn	Redmond
Bonior	Hoyer	Rivers
Boucher	John	Rush
Brady	Johnson, E. B.	Sabo
Brown (OH)	Johnson, Sam	Sandlin
Cannon	Jones	Schaefer, Dan
Chambliss	Klink	Sensenbrenner
Clyburn	Kucinich	Sessions
Collins	Lazio	Smith (MI)
Condit	Levin	Smith, Linda
Conyers	Linder	Snowbarger
Crapo	Livingston	Stearns
Cubin	Martinez	Tauzin
Cummings	Mascara	Thompson
Davis (IL)	McCrery	Towns
DeLay	McInnis	Traficant
Dingell	Meeks (NY)	Upton
Doolittle	Menendez	Watt (NC)
Doyle	Mink	Wynn
Emerson	Morella	Young (AK)
Ford	Nussle	

NOES—339

Abercrombie	Archer	Ballenger
Ackerman	Armey	Barr
Aderholt	Bachus	Barrett (WI)
Allen	Baesler	Barton
Andrews	Baldacci	Bass

Becerra
Bentsen
Bereuter
Berman
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Castle
Chabot
Chenoweth
Clay
Clayton
Clement
Coble
Coburn
Combest
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Oberstar
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanders
Sanford
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Turner
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (FL)

ANSWERED "PRESENT"—2

Cardin
Sawyer

NOT VOTING—11

Bateman
Carson
Christensen
Fossella
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Riggs
Skaggs

□ 1518

Messrs. CLAY, SPRATT, GALLEGLY, WATKINS and STOKES, and Mrs. CLAYTON and Mrs. MYRICK changed their vote from "aye" to "no."

Mr. YOUNG of Alaska 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. RIGGS. Mr. Chairman, on Rollcall No.'s 127 and 128 I was unavoidably detained on other congressional business and unable to be present to vote. Had I been present, I would have voted "no" on both rollcall votes.

Mr. BLILEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the Members for the debate. I want to thank the Members for their support of the bill. I particularly want to thank the gentleman from Massachusetts (Mr. MARKEY), the gentleman from Louisiana (Mr. TAUZIN), and the others who took part in the debate.

I would also especially like to thank my satellite team who labored very hard to open up the schools: Patricia Paoletta, Michael O'Reilly, Cliff Riccio, and Ed Hearst.

The CHAIRMAN. Are there other amendments?

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

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

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. EWING) having resumed the chair, Mr. SNOWBARGER, 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. 1872) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes, pursuant to House Resolution 419, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

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

The amendment was agreed to.

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

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 16, answered "present" 2, not voting 11, as follows:

[Roll No. 129]

AYES—403

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
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
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
Ford
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
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden

Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
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
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
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
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
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 (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)

NOES—16

Berry
Conyers
Dingell
Hamilton
Hoyer
John
Klink
Kucinich
Martinez
Menendez
Morella
Oberstar
Pascrell
Peterson (MN)
Taylor (MS)
Wynn

ANSWERED "PRESENT"—2

Cardin
Sawyer

NOT VOTING—11

Bateman
Carson
Chenoweth
Christensen
Fossella
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Skaggs

□ 1542

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1872, the bill just passed.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROPOSED AGREEMENT FOR COOPERATION BETWEEN UNITED STATES AND UKRAINE CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. No. 105–248)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with Ukraine has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Ukraine under appropriate conditions and controls reflecting our common commitment to nuclear nonproliferation goals.

The proposed new agreement with Ukraine permits the transfer of technology, material, equipment (including reactors), and components for nuclear research, and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components of such facilities. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

Ukraine is a nonnuclear weapon state party to the Treaty on the nonproliferation of Nuclear Weapons (NPT). Following the dissolution of the Soviet Union, Ukraine agreed to the removal of all nuclear weapons from its territory. It has a full-scope safeguards agreement in force with the International Atomic Energy Agency (IAEA) to implement its safeguards obligations under the NPT. Ukraine was accepted as a member of the Nuclear Suppliers Group in April 1996, and as a member of the NPT Exporters Committee (Zangger Committee) in May 1997.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session provided for in section 123d. shall commence.

WILLIAM J. CLINTON,

THE WHITE HOUSE, *May 6, 1998.*

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3694, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105-511) on the resolution (H. Res. 420) providing for consideration of the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HIGHER EDUCATION AMENDMENTS OF 1998

The SPEAKER pro tempore (Mr. EWING). Pursuant to House Resolution 411 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. 6.

□ 1545

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 further consideration of the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, with Mr. EWING (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Tuesday, May 5, 1998, title VII was open for amendment at any point.

LIMITING DEBATE ON AMENDMENT NO. 75 AND ALL AMENDMENTS THERETO

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that debate on the amendment numbered 75, and all amendments thereto, be limited to 1 hour, equally divided and controlled by Representative HASTERT of Illinois or his designee and Representative ROEMER of Indiana or his designee.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—ADDITIONAL PROVISIONS

SEC. 801. STUDY OF TRANSFER OF CREDITS.

(a) STUDY REQUIRED.—The Secretary of Education shall conduct a study to evaluate policies or practices instituted by recognized accrediting agencies or associations regarding the treatment of the transfer of credits from one institution of higher education to another, giving particular attention to—

(1) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by different agencies or associations and the reasons for such policies;

(2) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by national agencies or associations and institutions of higher education which are accredited by regional agencies and associations and the reasons for such policies;

(3) the effect of the adoption of such policies on students transferring between such institutions of higher education, including time required to matriculate, increases to the student of tuition and fees paid, and increases to the student with regard to student loan burden;

(4) the extent to which Federal financial aid is awarded to such students for the duplication of coursework already completed at another institution; and

(5) the aggregate cost to the Federal Government of the adoption of such policies.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Chairman and Ranking Minority Member of the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate detailing his findings regarding the study conducted under subsection (a). The Secretary's report shall include such recommendation with respect to the recognition of accrediting agencies or associations as the Secretary deems advisable.

SEC. 802. STUDY OF MARKET MECHANISMS IN FEDERAL STUDENT LOAN PROGRAMS.

(a) STUDY REQUIRED.—The Comptroller General, in consultation with interested parties, shall conduct a study of the potential to use auctions or other market mechanisms in the delivery of Federal student loans in order to reduce costs both to the Federal Government and to borrowers. Such study shall include an examination of—

(1) the feasibility of using an auction of lending authority for Federal student loans, and the appropriate Federal role in the operation of such an auction or other alternative market mechanisms;

(2) methods for operating such a system to ensure loan access for all eligible borrowers, while maximizing the cost-effectiveness (for the Government and borrowers) in the delivery of such loans;

(3) the impact of such mechanisms on student loan availability;

(4) any necessary transition procedures for implementing such mechanisms;

(5) the costs or savings likely to be attained for the Government and borrowers;

(6) the feasibility of incorporating income-contingent repayment options into the student loan system and requiring borrowers to repay through income tax withholding, and the impact of such an option on the willingness of lenders to participate in auctions or other market mechanisms and on the efficiency of Federal management of student loan programs;

(7) the ability of the Department of the Treasury to effectively auction the right to make student loans; and

(8) other relevant issues.

(b) RECOMMENDATIONS.—Within 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the study required by subsection (a) and shall include with such report any legislative recommendations the Comptroller General considers appropriate.

SEC. 803. IMPROVEMENTS IN MARKET INFORMATION AND PUBLIC ACCOUNTABILITY IN HIGHER EDUCATION.

(a) IMPROVED DATA COLLECTION.—

(1) DEVELOPMENT OF UNIFORM METHODOLOGY.—The Secretary shall direct the Commissioner of Education Statistics to convene a series of forums to develop nationally consistent methodologies for reporting costs incurred by postsecondary institutions in providing postsecondary education.

(2) SEPARATION OF UNDERGRADUATE AND GRADUATE COSTS.—Such consistent methodologies shall permit the Secretary to collect and disseminate separate data with respect to the costs incurred in providing undergraduate and graduate postsecondary education.

(3) REDESIGN OF DATA SYSTEMS.—On the basis of the methodologies developed pursuant to paragraph (1), the Secretary shall redesign relevant parts of the postsecondary education data systems to improve the usefulness and timeliness of the data collected by such systems.

(b) DATA DISSEMINATION.—The Secretary shall publish, in both printed and electronic form, of the data collected pursuant to subsection (a). Such data shall be available in a form that permits the review and comparison of the data submissions of individual institutions of higher education. Such data shall be presented in a form that is easily understandable and allows parents and students to make informed decisions based on the following costs for typical full-time undergraduate or graduate students—

(1) tuition charges published by the institution;

(2) the institution's cost of educating students on a full-time equivalent basis;

(3) the general subsidy on a full-time equivalent basis;

(4) instructional cost by level of instruction;

(5) the total price of attendance; and

(6) the average amount of per student financial aid received, including and excluding assistance in the form of loans.

SEC. 804. DIFFERENTIAL REGULATION.

(a) GAO STUDY.—The Comptroller General shall conduct a study of the extent to which unnecessary costs are imposed on postsecondary education as a consequence of the applicability to postsecondary facilities and equipment of regulations prescribed for purposes of regulating industrial and commercial enterprises.

(b) REPORT REQUIRED.—Within one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress on the results of the study required by subsection (a).

SEC. 805. ANNUAL REPORT ON COST OF HIGHER EDUCATION.

(a) GAO REPORT REQUIRED.—The Comptroller General shall conduct an on-going analysis of the following:

(1) The increase in tuition compared with other commodities and services.

(2) Trends in college and university administrative costs, including administrative staffing, ratio of administrative staff to instructors, ratio of administrative staff to students, remuneration of administrative staff, and remuneration of college and university presidents or chancellors.

(3) Trends in (A) faculty workload and remuneration (including the use of adjunct faculty), (B) faculty-to-student ratios, (C) number of hours spent in the classroom by faculty, and (D) tenure practices, and the impact of such trends on tuition.

(4) Trends in (A) the construction and renovation of academic and other collegiate facilities, and (B) the modernization of facilities to access and utilize new technologies, and the impact of such trends on tuition.

(5) The extent to which increases in institutional financial aid and tuition discounting have affected tuition increases, including the demographics of students receiving such aid, the extent to which such aid is provided to students

with limited need in order to attract such students to particular institutions or major fields of study, and the extent to which Federal financial aid, including loan aid, has been used to offset such increases.

(6) The extent to which Federal, State, and local laws, regulations, or other mandates contribute to increasing tuition, and recommendations on reducing those mandates.

(7) The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.

(8) The extent to which student financial aid programs have contributed to changes in tuition.

(9) Trends in State fiscal policies that have affected college costs.

(10) Other related topics determined to be appropriate by the Comptroller General.

(b) ANNUAL REPORT TO CONGRESS.—The Comptroller General shall submit to the Congress an annual report on the results of the analysis required by subsection (a).

SEC. 806. REPEALS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

(a) HIGHER EDUCATION AMENDMENTS OF 1986.—Title XIII of the Higher Education Amendments of 1986 (20 U.S.C. 1091 note, 1121 note, 1221e–1 note, 1011 note, 1070a note, 1071 note, 1221–1 note, 1091 note) is repealed.

(b) HIGHER EDUCATION AMENDMENTS OF 1992.—

(1) TITLE XIV.—Title XIV of the Higher Education Amendments of 1992 (20 U.S.C. 1071 note, 1080 note, 1221e note, 1070 note, 1221e–1 note, 1070a–21 note, 1134 note, 1132a note, 1221–1 note, 1101 note) is repealed.

(2) TITLE XV.—Parts A, B, C, D, and E of title XV of the Higher Education Amendments of 1992 (29 U.S.C. 2401 et seq., 20 U.S.C. 1452 note, 1101 note, 1145h, 1070 note) are repealed.

SEC. 807. LIMITATION.

None of the funds appropriated under the Higher Education Act of 1965 or any other Act shall be made available by any Federal agency to the National Board for Professional Teaching Standards.

AMENDMENT NO. 70 OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 70 offered by Mr. MILLER of California:

Page 334, after line 19, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 806. EDUCATIONAL MERCHANDISE LICENSING CODES OF CONDUCT.

It is the sense of the Congress that all American colleges and universities should adopt rigorous educational merchandise licensing codes of conduct to assure that university and college licensed merchandise is not made by sweatshirts and exploited adult or child labor either domestically or abroad and that such codes should include at least the following:

(1) public reporting of the code and the companies adhering to it;

(2) independent monitoring of the companies adhering to the code by entities not limited to major international accounting firms;

(3) an explicit prohibition on the use of child labor;

(4) an explicit requirement that companies pay workers at least the governing minimum wage and applicable overtime;

(5) an explicit requirement that companies allow workers the right to organize without retribution; and

(6) an explicit requirement that companies maintain a safe and healthy workplace.

Mr. MILLER of California. Mr. Chairman, today all across America, consumers are taking a closer look at how products that they buy are made. There are some things consumers have always wanted to know: How much does it cost? Where is it made? What is it made of? And was it made with union labor? Was it made with recycled products?

For many years, there have been labels on these products to provide consumers this information. Today, however, on the heels of a number of embarrassing incidents involving high-profile personalities and well-known companies, consumers want to know more about the products they buy. They want to know under what conditions were these products made. They want to know, for example, whether the T-shirts, the baseball caps, the sweatpants, and the soccer balls they buy for themselves and for their children were made by children. They want to know if the products they are buying with their hard-earned money were made by workers who were exploited in sweatshops or by child labor. There are no labels to tell consumers that kind of information.

Until there is a better way to inform consumers about labor practices, about the methods of production, we think that one of the best ways to do this is for purchasers of these items to engage in voluntary codes of conduct, codes of conduct that are backed up by independent monitoring.

We now have some of these voluntary codes of conduct with members of the apparel industry. Some of the big names in the apparel industry, the designer labels, have agreed to voluntary codes of conduct to monitor under what conditions their garments are made, how they are made, who made them, and whether or not it is exploited labor.

What we now see on our university and college campuses is that many goods are sold on college campuses in the bookstores, sports memorabilia, college educational memorabilia items, such as this, a baseball cap. A simple baseball cap that might be sold on the university campus, it turns out that it is made in a sweatshop. It is made by exploited labor. In some cases it is made by child labor.

Some universities, when they have learned this information, have immediately taken the items off of their shelves. They refuse to sell them. Cornell University just did this. Other universities have said, if we had known that, we would never have purchased them. Duke University and Brown University have just entered into voluntary codes of conduct for the purchasing of these materials.

Duke University and Brown University sell a lot of this memorabilia. Alumni go there, the students go there, they buy it for gifts for their brothers and sisters. They have no way of knowing it was made with exploited labor or made with child labor. So now they have a voluntary code of conduct to protect the purchasers, to protect their student body from this kind of condition.

The code stipulates that the companies must certify, if they are going to sell to these universities, that this is not made with child labor, that this is not made in sweatshops, that the minimum wage in the area was paid. Different universities have different approaches, but it is to try to raise the awareness and to make sure that the university could protect its consumers.

This is a market that is over $2 billion. Over $2 billion of these sweatshirts and sweatpants and T-shirts and baseball caps and other paraphernalia are purchased. Some universities sell a huge amount of this, Harvard University, Duke University, University of Southern California, Notre Dame, and others. Duke University estimates that it sells about $20 million of this licensed merchandise. Cornell says it receives about $15,000 in royalties.

What my amendment does is express the sense of Congress to encourage the adoption of these voluntary codes of conduct by colleges and universities governing the merchandise that they license for manufacture. By passing this measure, Congress will lend a helping hand to a growing private sector movement to restore a sense of integrity and decency to our marketplace.

As one indication of the growing importance of this issue, the Association of Collegiate Licensing Administrators will convene their annual meeting later this month, and this topic of discussion is on their agenda to discuss such codes as were adopted by Duke University and Brown.

In addition, the Collegiate Licensing Company, which represents 160 schools, including Cornell, is in the process of writing a code of conduct for its clients. When we asked Duke, which had adopted its code in March, "Why did you do so?" they said for two reasons: One, on moral grounds, it was absolutely the right thing to do; and it was also smart economically.

The universities have come to recognize, as pointed out both again by people at Duke and by the provost of Harvard University, that the university has to protect the integrity of its name. If its name is associated with sweatshop merchandise, if its name is associated with child labor, exploited labor, it cheapens the name and integrity of the university.

So they have a reason to do this, and yet, these very same universities in a recent report found that a company named BJ&B is running sweatshops in

the Dominican Republic making baseball caps for leading American universities, Harvard, Cornell, Notre Dame, Georgetown, Duke, and others and they did not know it. So now they are moving in this direction.

I would hope that the Congress would support this effort with this sense of Congress resolution for these voluntary codes of conduct. These are baseball caps that sell for about $20, for about $20. The university gets about $1.50 in royalty and licensing fee. The worker gets 7 cents. So, obviously, there is improvement that can be made here in terms of compensating the people who are making these products.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Many of these workers work up to or in excess of 56 hours a week. Very often they are not compensated for overtime, they are not paid the minimum wage that is required by law in the country, and very often they are hired for short periods of time and they are forced out of the job because they prefer to have younger workers and they force people out after the age of 25.

Many of the workers are given quotas that are almost unachievable. It means that they then have to come in and work off of the clock so they can start their new day of work.

Mr. Chairman, I want to applaud Duke University and Brown University and Cornell University, who is now in the process of considering these codes of conduct and those who have already passed codes of conduct, because I think that they are returning to the roots of the university system and demanding the excellence and integrity and dignity of their name and of those things that are associated with them. I would hope that all schools of higher education would support this effort.

Let me also make it clear that I do not believe that code of conduct is enough to ensure honest wages and safety from exploitative workplaces. But our committee has a number of those topics under discussion and those are topics for another time. These voluntary code of conducts, finally let me say, do work.

Over 2 years ago an effort was started in both the public and private sector to ask questions about soccer balls. Soccer balls were made in Malaysia, Indonesia, Bangladesh and elsewhere using very, very young children because they had tiny hands that could sew the soccer ball; and they used them until they could no longer do it, and then they were thrown out on the streets.

We started a campaign that was started by young children, a school-aged boy from Canada, a young boy from India that started this campaign. And today, today the International Soccer Federation will not give its consent to its name being put on a soccer ball if it is made with child labor.

Nike and Reebok, when they learned of this, completely reorganized how they construct these balls. They brought it in house. They do not allow labor to be exploited.

So a voluntary effort can make a big difference, as we are starting to see in some parts of the apparel industry, as we saw in the Soccer Federation, and I hope we will start to see on the university campuses. I would urge all of my colleagues to support this.

I would like to thank so many of the students across the country who have taken up this effort, have brought this to the attention of the university administrations. And I would hope that we would soon have a university-wide voluntary code of conduct with respect to the purchase of this.

Mr. Chairman, I would like to submit for the RECORD several additional items, including: my complete floor statement; the list of the members of the Apparel Industry Partnership; a copy of the report of the Apparel Industry Partnership to President Clinton that includes the code of conduct that has become the basis for codes being used by other universities and colleges; and, three editorials on the Apparel Industry Partnership's report.

Participants in the Apparel Industry Partnership include: Liz Claiborne Inc.; Nike; Phillips-Van Heusen; Reebok; L.L. Bean; Patagonia; Tweeds; Nicole Miller; Karen Kane; UNITE; the Retail, Wholesale, Department Store Union; Business for Social Responsibility; the Interfaith Center on Corporate Responsibility; the International Labor Rights Fund; Lawyers Committee for Human Rights; the National Consumers League; and the RFK Memorial Center for Human Rights.

REPORT OF APPAREL INDUSTRY PARTNERSHIP

The members of the Apparel Industry Partnership hereby report to the President and to the public on:

The announcement of the attached "Workplace Code of Conduct" as a set of standards defining decent and humane working conditions;

The individual determination of each company participating in the Partnership to adhere to the Code and to implement as soon as reasonably practicable a monitoring program consistent with the attached "Principles of Monitoring," by adopting an internal monitoring program consistent with such Principles and utilizing an independent external monitor that agrees to conduct its monitoring consistent with such Principles; and

The Partnership's commitment to work together to form, during a six-month transition period, a nonprofit association that would have the following functions intended to provide the public with confidence about compliance with the Code:

To determine the criteria for company membership in the association and for companies to remain members in good standing of the association;

To develop criteria and implement procedures for the qualification of independent external monitors;

To design audit and other instruments for the establishment of baseline monitoring practices;

To continue to address questions critical to the elimination of sweatshop practices;

To develop means to maximize the ability of member companies to remedy any instances of noncompliance with the Code; and

To serve as a source of information to consumers about the Code and about companies that comply with the Code.

The association would be governed by a board whose members would be nominated by companies, labor unions and consumer, human rights and religious groups. The Partnership would work together during this transition period to further determine the governance of the association.

WORKPLACE CODE OF CONDUCT

The Apparel Industry Partnership has addressed issues related to the eradication of sweatshops in the United States and abroad. On the basis of this examination, the Partnership has formulated the following set of standards defining decent and humane working conditions. The Partnership believes that consumers can have confidence that products that are manufactured in compliance with these standards are not produced under exploitative or inhumane conditions.

Forced Labor. There shall not be any use of forced labor, whether in the form of prison labor, indentured labor, bonded labor or otherwise.

Child Labor. No person shall be employed at an age younger than 15 (or 14 where the law of the country of manufacture[1] allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

Harassment or Abuse. Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

Nondiscrimination. No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin.

Health and Safety. Employers shall provide a safe and healthy working environment to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employer facilities.

Freedom of Association and Collective Bargaining. Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

Wages and Benefits. Employers recognize that wages are essential to meeting employees' basic needs. Employers shall pay employees, as a floor, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and shall provide legally mandated benefits.

Hours of Work. Except in extraordinary business circumstances, employees shall (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime, or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country do not limit the hours of work, the regular work week in such country plus 12 hours overtime and (ii) be entitled to at least one day off in every seven day period.

Overtime Compensation. In addition to their compensation for regular hours of work, employees shall be compensated for overtime hours at such premium rate as is legally required in the country of manufacture or, in those countries where such laws do not exist, at a rate at least equal to their regular hourly compensation rate.

Any company that determines to adopt the Workplace Code of Conduct shall, in addition to complying with all applicable laws of the country of manufacture, comply with and support the Workplace Code of Conduct in accordance with the attached Principles of Monitoring and shall apply the higher standard in cases of differences or conflicts. Any company that determines to adopt the Workplace Code of Conduct also shall require its contractors and, in the case of a retailer, its suppliers to comply with applicable local laws and with this Code in accordance with the attached Principles of Monitoring and to apply the higher standard in cases of differences or conflicts.

PRINCIPLES OF MONITORING

I. Obligations of Companies[2]

A. Establish Clear Standards

Establish and articulate clear, written workplace standards;[3]

Formally convey those standards to company factories as well as to contractors and suppliers;[4]

Receive written certifications, on a regular basis, from company factories as well as contractors and suppliers that standards are being met, and that employees have been informed about the standards; and

Obtain written agreement of company factories and contractors and suppliers to submit to periodic inspections and audits, including by independent external monitors, for compliance with the workplace standards.

B. Create An Informed Workplace

Ensure that all company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

C. Develop An Information Database

Develop a questionnaire to verify and quantify compliance with the workplace standards; and

Require company factories and contractors and suppliers to complete and submit the questionnaire to the company on a regular basis.

D. Establish Program to Train Company Monitors

Provide training on a regular basis to company monitors about the workplace standards and applicable local and international law, as well as about effective monitoring practices, so as to enable company monitors to be able to assess compliance with the standards

E. Conduct Periodic Visits and Audits

Have trained company monitors conduct periodic announced and unannounced visits to an appropriate sampling of company factories and facilities of contractors and suppliers to assess compliance with the workplace standards; and

Have company monitors conduct periodic audits of production records and practices and of wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers.

F. Provide Employees With Opportunity to Report Noncompliance

Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable company employees and employees of contractors and suppliers to report to the company on noncompliance with the workplace standards, with security that they will not be punished or prejudiced for doing so.

G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

Consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions and utilize, where companies deem necessary, such local institutions to facilitate communication with company employees and employees of contractors and suppliers in the reporting of noncompliance with the workplace standards;

Consult periodically with legally constituted unions representing employees at the worksite regarding the monitoring process and utilize, where companies deem appropriate, the input of such unions; and

Assure that implementation of monitoring is consistent with applicable collective bargaining agreements.

H. Establish Means of Remediation

Work with company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards promptly as they are discovered and to take steps to ensure that such instances do not recur; and

Condition future business with contractors and suppliers upon compliance with the standards.

II. Obligations of independent external monitors

A. Establish Clear Evaluation Guidelines and Criteria

Establish clear, written criteria and guidelines for evaluation of company compliance with the workplace standards

B. Review Company Information Database

Conduct independent review of written data obtained by company to verify and quantify compliance with the workplace standards

C. Verify Creation of Informed Workplace

Verify that company employees and employees of contractors and suppliers have been informed about the workplace standards orally, through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and through other educational efforts.

D. Verify Establishment of Communications Channel

Verify that the company has established a secure communications channel to enable company employees and employees of contractors and suppliers to report to the company on noncompliance with the workplace standards, with security that they will not be punished or prejudiced for doing so.

E. Be Given Independent Access to, and Conduct Independent Audit of, Employee Records

Be given independent access to all production records and practices and wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers; and

Conduct independent audit, on a confidential basis, of an appropriate sampling of production records and practices and wage, hour, payroll and other employee records and practices of company factories and contractors and suppliers.

F. Conduct Periodic Visits and Audits

Conduct periodic announced and unannounced visits, on a confidential basis, of an appropriate sampling of company factories and facilities of contractors and suppliers to survey compliance with the workplace standards.

G. Establish Relationships with Labor, Human Rights, Religious or Other Local Institutions

In those instances where independent external monitors themselves are not leading local human rights, labor rights, religious or other similar institutions, consult regularly with human rights, labor, religious or other leading local institutions that are likely to have the trust of workers and knowledge of local conditions; and

Assure that implementation of monitoring is consistent with applicable collective bargaining agreements and performed in consultation with legally constituted unions representing employees at the worksite.

H. Conduct Confidential Employee Interviews

Conduct periodic confidential interviews, in a manner appropriate to the culture and situation, with a random sampling of company employees and employees of contractors and suppliers (in their local languages) to determine employee perspective on compliance with the workplace standards; and

Utilize human rights, labor, religious or other leading local institutions to facilitate communication with company employees and employees of contractors and suppliers, both in the conduct of employee interviews and in the reporting of noncompliance.

I. Implement Remediation

Work, where appropriate, with company factories and contractors and suppliers to correct instances of noncompliance with the workplace standards.

J. Complete Evaluation Report

Complete report evaluating company compliance with the workplace standards.

Endnotes:

[1] All references to local law throughout this Code shall include regulations implemented in accordance with applicable local law.

[2] It is recognized that implementation by companies of internal monitoring programs might vary depending upon the extent of their resources but that any internal monitoring program adopted by a company would be consistent with these Principles of Monitoring. If companies do not have the resources to implement some of these Principles as part of an internal monitoring program, they may delegate the implementation of such Principles to their independent external monitors.

[3] Adoption of the Workplace Code of Conduct would satisfy the requirement to establish and articulate clear written standards. Accordingly, all references to the "workplace standards" and the "standards" throughout this document could be replaced with a reference to the Workplace Code of Conduct.

[4] These Principles of Monitoring should apply to contractors where the company adopting the workplace standards is a manufacturer (including a retailer acting as a manufacturer) and to suppliers where the company adopting the standards is a retailer (including a manufacturer acting as a retailer). A "contractor" or a "supplier" shall mean any contractor or supplier engaged in a manufacturing process, including cutting, sewing, assembling and packaging, which results in a finished product for the consumer.

[From the San Francisco Examiner, Apr. 17, 1997]

"NO SWEAT" REQUIRES SWEAT EQUITY

A CODE OF CONDUCT PLEDGED BY NIKE, REEBOK AND OTHERS IS ONLY A FIRST STEP TOWARD ENDING INTERNATIONAL SWEATSHOP ABUSES

With strong caveats, we endorse the creation of a code of conduct to fight sweatshop practices around the world. It is a good first step if the participating shoe and apparel manufacturers are serious about making it work.

Agreement was announced Monday by several companies—including Nike, Reebok, Liz Claiborne, Patagonia and L.L. Bean—along with human rights and labor groups that joined together as members of a presidential task force. Some critics, however, said the code would only lead to "kinder, gentler sweatshops."

Required under the new code are the elimination of child labor, a guarantee of pay at the minimum wage prevailing in the country of manufacture, a maximum 60-hour week, the end of abusive working conditions and protection of workers' right to organize. Unsettled are details of inspections and sanctions, which are critical to success of the code.

In exchange, companies that comply will be able to emblazon merchandise with a "No Sweat" label, a signal to buyers that sweatshop labor was not used in its manufacture.

The responsibility of American manufacturers toward workers in their foreign plant—in Indonesia, Vietnam, Haiti and other countries—has been a controversial issue. Now, at least, the companies are publicly pledged to uphold minimum standards and to fight abusive conditions.

"This is a breakthrough agreement that really stands to benefit workers around the world," said Michael Posner, a task force member and executive director of the Lawyers Committee on Human Rights.

To prevent the code of conduct from becoming merely a public relations device—a coverup for continued sweatshop activity—we beleive two additional steps are necessary.

First, manufacturers must agree to factory inspections carried out by truly independent groups, not just auditors hired by the companies. Inclusion of internationally respected groups such as Amnesty International or Human Rights Watch would clinch the effort's credibility.

Second, violations must be announced publicly and quickly. This carries two beneficial effects: Consumers will be resurred that the inspections aren't a sham, and companies will be prodded to correct deficiencies without delay. Companies that don't must be stripped of their "No Sweat" logos.

The code will not solve all the world's problems. Nor should it be expected to do so. No realistic, economically sophisticated person should expect Nike or Reebok to pay workers far above their country 's prevailing wage, no matter how "just" that may seem to U.S. critics.

What's more important is halting abuses such as those reported by USA Today earlier this year in plants run by Nike subcontractors in Vietnam. One factory floor manager was convicted of beating Vietnamese workers with a shoe. Another Nike subcontractor was cited for making 58 Vietnamese women employees run laps as punishment until some dropped from exhaustion and had to be taken to a hospital.

Such revelations are not good news for Nike or any other manufacturer that basks in an all-American image. Self-interest, if not humanitarian zeal, ought to be an impetus to just do the right thing.

American companies that manufacture abroad are sometimes portrayed as economic pirates. Left unsaid is that they benefit hundreds of thousands of foreign workers, who, after all, are not coerced to work for Nike or Reebok but line up for the chance. They know that a job that pays even a few dollars a day is better than no job.

Nothing should absolve American companies of their wider social responsibilities. The code is a beginning. The debate will continue.

As long as it's sincere, this joint effort by companies and human rights groups can accomplish more than rhetorical campaigns to improve the lot of international workers. But the "No Sweat" labels must mean a real commitment and not a public relations gimmick. Over time, cheaters never win.

[From the Los Angeles Times, Apr. 16, 1997]

A BIG NO TO SWEATSHOPS

CLINTON PLAN FOR A CODE AND "NO SWEAT" LABEL ON CLOTHING IS LAUDABLE

The president of the United States has the ability to do many things but so far not to erase sweatshop labor practices in American and overseas clothing factories. Bill Clinton, however, at least is trying.

This week he proposed a voluntary code under which U.S. clothing companies would accept the presence of independent auditors to monitor compliance with a minimum set of workplace labor laws. The code would apply whether the work was done in the United States or abroad. Companies that pay at least the legal minimum wage in the country where the work is being done, use no child labor, have a workweek of no more than 60 hours and give workers at least one day off each week would be permitted to apply a "No Sweat" label to their clothes. Cute, and potentially effective.

Some critics will argue that the code merely sets forth standards that every company in the world should be observing anyway. But in fact few companies in the clothing industry or, for that matter, in some other handwork industries adhere to these minimum legal standards.

Another objection to the presidential initiative deals with the composition of the independent panel that would monitor compliance. Some American union leaders insist that non-governmental, religious and human rights organizations, plus union representatives, perform the process. Employers who have agreed to the code want an international firm of auditors to do that job.

This should not be an issue. As long as the auditors do not have any conflict of interest, there should be no problem. The program should have a grievance procedure, however. And there is no doubt that under a grievance process the workers would use their voice to complain about any injustice, whether covered in the code or not.

The real test for the presidential initiative will be whether consumers make the "No Sweat" label the decisive element when they go shopping for clothes. That will make all the difference.

[From the New York Times, Apr. 16]

A MODEST START ON SWEATSHOPS

A newly proposed code of conduct for domestic and overseas sweatshops makes useful pledges to improve the appalling working conditions of apparel workers around the world. But the code is so littered with loopholes its impact will probably be limited unless public and press attention remains fixed on the problems of sweatshop workers.

The Presidential task force that developed the code included industry giants like Nike, Reebok, L.L. Bean and Liz Claiborne, as well as representatives of labor and human rights groups. It got industry pledges to provide abuse-free factories, hire children at least 15 years old, limit workweek to 60 hours and protect the right of workers to organize without fear of retaliation by their employers. The code also calls for companies to hire independent monitors that would work with local human rights groups. This provision is vital, since in oppressive societies workers would only voice discontent to groups that have gained their trust.

Identifying and publicizing abuses is essential to improving conditions. The coverage of inhumane conditions at Central American factories turning out clothes for Wal-Mart under the name of Kathie Lee Gifford led to creation of the task force. Two years ago, the industry would have brushed off any proposal to monitor its third-world factories.

The weakness of the code is its lack of precise commitments. The accord suggests but does not require local independent monitoring of working conditions or public disclosure of infractions. The 60-hour limit on the workweek can be waived for what are called "extraordinary" circumstances.

Even if a follow-up commission strengthens the wording, the code cannot work unless American consumers penalize non-participants. Some companies will not sign the code. Warnaco, which makes Hathaway shirts, withdrew from the task force because the company fears that the public disclosure of monitors' reports will reveal trade secrets to competitors. If consumers flock to lower-priced clothes produced by companies that ignore the code, the effort will fail.

The task force correctly rejected the idea of imposing a "living" wage, calling instead for companies to pay only the locally prevailing minimum wage. An externally determined wage would almost surely victimize the world's worst-paid workers. Manufacturers would close shop in countries like Haiti and Vietnam where workers produce too little to cover the higher wage employers would be required to pay, and reopen somewhere else where factories are more productive. The more humane course is to rely on competition to drive up productivity and wages, as has happened in South Korea and other Asian economies.

At best, a voluntary accord that includes industry can only accomplish so much. The task force may help reduce the political heat on Mr. Clinton, labor unions and industry to deal with the working conditions in faraway factories. Whether third-world workers will ever see a benefit depends on sharpening the code and intensifying disclosure of companies that violate its provisions.

Mr. GOODLING. Mr. Chairman, I move to strike the last word.

I do not plan to oppose the Miller amendment. It is a sense of Congress resolution. But I do want to make a couple of comments about it.

First of all, I appreciate the willingness of the gentleman from California (Mr. MILLER) to delete from his original amendment the list of findings that I think were problematic both from a germaneness point of view and in terms of some of the specific items that were included.

Secondly, I have a concern that the amendment urges American colleges and universities to do something that neither they nor we have much guidance on what is intended.

It is my understanding there are some universities that have adopted some type of codes of conduct for their licensed apparel. But we do not know how well these codes work at this particular time. It is unclear since it is a rather limited experience.

I understand the resolution basically says that codes of conduct are generally a good idea. Beyond that, we

really do not have much information on how they work in the context of colleges' and universities' licensed apparel. I would particularly make the point with regard to the issue of monitoring. This has obviously been the most difficult issue with regard to voluntary codes of conduct.

On the one hand, there are those who believe that only independent monitoring is effective; on the other hand, there are always questions about who would do the monitoring, who would choose the monitors, what would the monitors use as a baseline, and so on. Because these questions remain, I believe it would be premature to endorse independent monitoring in terms of any direction we give to colleges and universities.

A few weeks ago, the gentleman from Michigan (Mr. HOEKSTRA) and I traveled to New York City and saw firsthand some of the most horrendous working conditions I have ever seen and certainly conditions that I did not expect ever to see in this country. And I know that sweatshops exist not just in other parts of the world but in this country.

So I do not oppose this amendment. I think it is important to emphasize that what it is saying basically, is that we think codes of conduct may be a good idea in helping to deal with them; and what we recognize is that it is much more difficult to actually implement a code of conduct and have it make a difference than it is to pass the resolution.

So we accept the Miller amendment.

Mr. BONIOR. Mr. Chairman, we all like to cheer for our favorite teams, and a lot of us proclaim our loyalty by wearing T-shirts and caps with the team logo.

Unfortunately, millions of these items are being produced overseas using child labor, in unsafe factories and at slave wages.

Take those baseball caps for example, the ones sporting names of major universities. They sell for $20 apiece all across America.

A lot of them are made in the Dominican Republic by people who get paid 8 cents a cap.

That's right—for each $20 cap a person sews, they get paid 8 cents.

Eight cents.

According to the New York Times, these hats are marketed under famous brand names such as Champion and Starter.

Well, I say it's time we start to champion a basic code of conduct.

A code of conduct to ensure that unscrupulous contractors are not exploiting people while profiting off the prestige of our great universities.

A code of conduct that enables fans to buy these shirts and caps and wear them with absolute pride.

A code of conduct that puts a premium on our principles, not just profit.

A code of conduct that will make a real difference in the daily lives of thousands of people—people we will never meet, but people whose only desire is the chance to make a decent living for their families.

The idea of a code of conduct is both creative and concrete.

It is a practical idea already in place at Duke University. Brown University is not far behind. Today I call on the universities in my state to follow their lead, especially the University of Michigan and Michigan State University.

This amendment will send a strong message that we oppose sweatshops, and that we urge this nation's colleges and universities to do their part to eradicate such abhorrent conditions.

Fans and consumers have a right to support their favorite schools without supporting sweatshops, and I strongly urge my colleagues to support this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from California (Mr. MILLER) will be postponed.

The point of no quorum is considered withdrawn.

Are there any further amendments to title VIII?

□ 1600

AMENDMENT NO. 58 OFFERED BY MR. KILDEE

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

The CHAIRMAN pro tempore (Mr. EWING). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 58 offered by Mr. KILDEE:

Page 334, after line 19, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 806. STUDY OF CONSOLIDATION OPTIONS.

No later than 2 years after the date of enactment of this Act, the Secretary shall report to Congress on the desirability and feasibility of possible new Federal efforts to assist individuals who have substantial alternative student loans (other than direct student loans and federally guaranteed student loans) to repay their student loans. The report shall include an analysis of the extent to which the high monthly payments associated with such loans deter such individuals from jobs (including public-interest and public-service jobs) with lower salaries than the average in relevant professions. The report shall include an analysis of the desirability and feasibility of allowing the consolidation of alternative student loans held by such individuals through the Federal student loan consolidation program or the use of other means to provide income-contingent repayment plans for alternative student loans.

Mr. KILDEE. Mr. Chairman, I offer this amendment on behalf of the gentleman from Colorado (Mr. SKAGGS), who unfortunately is hospitalized with an emergency appendectomy. I know that everyone in the House wishes him a very speedy recovery.

The Skaggs amendment would require the Secretary of Education to examine the very serious and substantial debts that students are amassing because of loans, other than those authorized in this legislation, they must obtain in order to pay for a college education. Specifically, the Secretary would be charged with the responsibility of determining the desirability and feasibility of new Federal efforts to assist such individuals repay these loans.

I understand this amendment has been agreed to by the other side. I would urge its adoption.

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

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

Mr. MCKEON. I thank the gentleman for yielding. Mr. Chairman, we do support this amendment. Likewise, we wish the best to the gentleman from Colorado (Mr. SKAGGS) and hope he is able to join with us quickly. This amendment will improve the bill.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. KILDEE).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. STUPAK:

Page 334, strike lines 20 and 21 and insert the following:

SEC. 806. REPEALS AND EXTENSIONS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.

Page 335, line 7, strike "D, and E" and insert "and D"; and after line 7, insert the following:

(3) OLYMPIC SCHOLARSHIPS.—Section 1543(d) of the Higher Education Amendments of 1992 is amended by striking "1993" and inserting "1999".

Mr. STUPAK. Mr. Chairman, today I am offering an amendment which reauthorizes the Olympic Education Scholarship program. This valuable program was first authorized in the 1992 Higher Education Act. It is designed and its purpose is to assist Olympic athletes continue their pursuit of education while training at the various Olympic training and education centers by authorizing up to $5 million for college scholarships.

Olympic athletes train at four Olympic centers in the United States, Marquette, Michigan; Lake Placid, New York; Colorado Springs, Colorado; and San Diego, California. More than 450 athletes train full time at all of the training sites to prepare for the Olympic games and thousands more train there part time. Many of these athletes

participated in the Nagano games just 3 months ago.

Last week the President hosted our Winter Olympic athletes from the 1998 games at the White House. Except for a very few sports, there is no post-Olympic professional athletic career for most Olympians. As a result, Mr. Chairman, education becomes a critical factor in the lives of these young people. But as so many of our American Olympians will attest, too often they must postpone or even forgo an education in order to prepare to represent the United States in the Olympic games. Many of the athletes would have greater access to college because of the Olympic scholarship, and the education they receive while training provides them with an excellent opportunity to prepare them for post-Olympic life.

Some athletes currently attend college while training. Many others, however, do not have the resources to pay for tuition and are unable to take classes. Unlike college athletes, many Olympic athletes spend thousands of dollars annually on equipment and travel to major events. The only way they can attend school is if scholarships are provided. That is why we need to reauthorize the Olympic scholarship program.

One example of this need of the Olympic education scholarship is Mark Lenzi, a gold medal winner diver at the Barcelona games in 1992. Mr. Lenzi announced on network television that he would sell his Olympic gold medal to help him pay for his college tuition.

Mr. Chairman, I am tremendously impressed with the dedication, determination and work ethic of our Olympic hopefuls. Given the opportunity, they apply the same dedication to their academic endeavors. Balancing a schedule of rigorous training and education is very difficult for any person. We should not, however, put our Olympic athletes in a position where they have to sacrifice an education in order to represent our country in the Olympic games.

Last week we had the Olympic dinner. Many of us attended and many of us patted the athletes on the back for a job well done. But what about an education? Last week when we were here, many Members had their photograph taken with the Olympic athletes. In fact, I was walking over on the other side and there were many of them out on the steps of the Capitol taking their picture with the Olympic athletes. But more than photo opportunities with congressional representatives and more than a dinner and more than a pat on the back, they need a helping hand and not a handout.

This is an opportunity to compete in the education field. Each Member in this House can help each Olympic athlete by reauthorizing this invaluable program. I know that there will be the other side who may say, well, we are not going to authorize new programs. This is a reauthorization of an old program. I know our job is only half done, that we still have to go to the Committee on Appropriations to get appropriations. Olympians know how to fight, they know how to compete. What we are asking for is to give them the opportunity to compete to reauthorize the Olympic Education Scholarship Program.

This amendment will simply give us a chance to continue the Olympic education scholarship to provide a commitment to our Olympic athletes beyond their performances in the games. I urge my colleagues to vote with me to reauthorize the Olympic Education Scholarship Program.

Mr. McKEON. Mr. Chairman, I move to strike the last word. Mr. Chairman, one of the good things that we have done in this bill is we have eliminated 45 unfunded programs and 11 studies and commissions. This is an attempt to bring one of these programs back before we have even finally moved final passage.

This program is unfunded and repealed in H.R. 6 along with all of the other unfunded programs I mentioned. This is pursuant to an agreement between the chairman and ranking member of the subcommittee with jurisdiction. We have worked this out in a bipartisan way. We are happy with the product that we have produced. We think we are doing the best for students and for the most possible people with the money available.

Students pursuing a postsecondary education may receive Federal student aid if they qualify under the Higher Education Act. There is no need for a separate program and the increased administrative costs associated with the new program when student athletes are already eligible just like any other student.

In this reauthorization we have tried to eliminate unfunded programs and limit the number of new programs created so that the appropriators have a clear understanding of the priorities of the committee when it comes to funding the higher education programs. Available funds should be committed to the programs which will work and serve the largest number of students. I urge a no vote on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. STUPAK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from Michigan (Mr. STUPAK) will be postponed.

The point of no quorum is considered withdrawn.

Are there further amendments to title VIII?

If not, the Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—AMENDMENTS TO OTHER LAWS

PART A—EDUCATION OF THE DEAF ACT

Subpart 1—Gallaudet University

SEC. 901. BOARD OF TRUSTEES MEMBERSHIP.

Section 103(a)(1) of the Education of the Deaf Act of 1986 (20 U.S.C. 4303(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "twenty-one" and inserting "twenty-two";

(2) in subparagraph (A), by striking "and" at the end;

(3) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(C) the liaison designated under section 206, who shall serve as an ex-officio, nonvoting member.".

SEC. 902. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 104(b)(3) of the Education of the Deaf Act of 1986 (20 U.S.C. 4304(b)(3)) is amended by striking "intermediate educational unit" and inserting "educational service agency".

(b) ADDITIONAL REQUIREMENTS.—Section 104(b)(4)(C) of such Act (20 U.S.C. 4304(b)(4)(C)) is amended by striking clauses (i) through (iv) and inserting the following:

"(i) Paragraph (1) and paragraphs (3) through (6) of subsection (b).

"(ii) Subsections (e) through (g).

"(iii) Subsection (h), except the provision contained in such subsection that requires that findings of fact and decisions be transmitted to the State advisory panel.

"(iv) Paragraphs (1) and (2) of subsection (i).

"(v) Subsection (j), except that such subsection shall not be applicable to a decision by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

"(vi) Subsections (k) through (m).".

SEC. 903. AGREEMENT WITH GALLAUDET UNIVERSITY.

Section 105(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(a)) is amended—

(1) in the first sentence, by striking "within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new" and inserting "and periodically update, an"; and

(2) by amending the second sentence to read as follows: "The necessity of the periodic update referred to in the preceding sentence shall be determined by the Secretary or the University.".

Subpart 2—National Institute For The Deaf

SEC. 911. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

Section 112 of the Education of the Deaf Act of 1986 (20 U.S.C. 4332) is amended—

(1) in subsection (a)(2), by striking "under this section" and all that follows and inserting the following: "under this section—

"(A) shall periodically assess the need for modification of the agreement; and

"(B) shall also periodically update the agreement as determined to be necessary by the Secretary or the institution."; and

(2) in subsection (b)(3), by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce".

Subpart 3—General Provisions

SEC. 921. DEFINITIONS.

Section 201 of the Education of the Deaf Act of 1986 (20 U.S.C. 4351) is amended—

(1) in paragraph (1)(C), by striking "Palau (but only until the Compact of Free Association with Palau takes effect),"; and

(2) in paragraph (5)—

(A) by inserting "and" before "the Commonwealth of the Northern Mariana Islands"; and

(B) by striking ", and Palau" and all that follows and inserting a period.

SEC. 922. AUDITS.

Section 203(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4353(b)) is amended in the first sentence by inserting before the period at the end the following: ", including the national mission and school operations of the elementary and secondary programs".

SEC. 923. REPORTS.

Section 204 of the Education of the Deaf Act of 1986 (20 U.S.C. 4354) is amended in the matter preceding paragraph (1) by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce".

SEC. 924. MONITORING, EVALUATION, AND REPORTING.

Section 205(c) of the Education of the Deaf Act of 1986 (20 U.S.C. 4355(c)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1999 through 2003".

SEC. 925. RESPONSIBILITY OF THE LIAISON.

Section 206 of the Education of the Deaf Act (20 U.S.C. 4356) is amended—

(1) in subsection (a), by striking "Not later than 30 days after the date of enactment of this Act, the" and inserting "The"; and

(2) in subsection (b)—

(A) in paragraph (2), by striking "and" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) serve as an ex-officio, nonvoting member of the Board of Trustees under section 103; and".

SEC. 926. FEDERAL ENDOWMENT PROGRAMS.

(a) FEDERAL PAYMENTS.—Section 207(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4357(b)) is amended—

(1) in paragraph (2) to read as follows:

"(2) Subject to the availability of appropriations, the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources during the fiscal year in which the appropriations are made available (excluding transfers from other endowment funds of the institution involved)."; and

(2) by striking paragraph (3).

(b) WITHDRAWALS AND EXPENDITURES.—Section 207(d)(2)(C) of such Act (20 U.S.C. 4357(d)(2)(C)) is amended by striking "Beginning on October 1, 1992, the" and inserting "The".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 207(h) of such Act (20 U.S.C. 4357(h)) is amended by striking "fiscal years 1993 through 1997" each place it appears and inserting "fiscal years 1999 through 2003".

SEC. 927. SCHOLARSHIP PROGRAM.

Section 208 of the Education of the Deaf Act of 1986 (20 U.S.C. 4358) is hereby repealed.

SEC. 928. OVERSIGHT AND EFFECT OF AGREEMENTS.

Section 209 of the Education of the Deaf Act of 1986 (20 U.S.C. 4359) is amended—

(1) in subsection (a), by striking "Committee on Education and Labor" and inserting "Committee on Education and the Workforce"; and

(2) by redesignating such section as section 208.

SEC. 929. INTERNATIONAL STUDENTS.

(a) ENROLLMENT.—Section 210(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a(a)) is amended to read as follows:

"(a) ENROLLMENT.—A qualified United States citizen seeking admission to the University or NTID shall not be denied admission in a given year due to the enrollment of international students.".

(b) CONFORMING AMENDMENT.—Section 210 of such Act (20 U.S.C. 4359a) is amended by redesignating such section as section 209.

SEC. 930. AUTHORIZATION OF APPROPRIATIONS.

Section 211 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360) is amended—

(1) in subsection (a), by striking "such sums as may be necessary for each of the fiscal years 1993 through 1997" and inserting "$83,480,000 for fiscal year 1999, $84,732,000 for fiscal year 2000, $86,003,000 for fiscal year 2001, $87,293,000 for fiscal year 2002, and $88,603,000 for fiscal year 2003";

(2) in subsection (b), by striking "such sums as may be necessary for each of the fiscal years 1993 through 1997" and inserting "$44,791,000 for fiscal year 1999, $46,303,000 for fiscal year 2000, $50,136,000 for fiscal year 2001, $50,818,000 for fiscal year 2002, and $46,850,000 for fiscal year 2003"; and

(3) by redesignating such section as section 210.

PART B—EXTENSION AND REVISION OF INDIAN HIGHER EDUCATION PROGRAMS

SEC. 951. TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.

(a) EXTENSION TO COLLEGES AND UNIVERSITIES.—The Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) is amended—

(1) by striking "community college" each place it appears and inserting "college or university";

(2) by striking "community colleges" each place it appears and inserting "colleges and universities";

(3) by striking "COMMUNITY COLLEGES" in the heading of title I and inserting "COLLEGES AND UNIVERSITIES";

(4) by striking "community college's" in section 2(b)(5) and inserting "college's or university's";

(5) by striking "the college" in sections 102(b), 113(c)(2), and 305(a) and inserting "the college or university";

(6) by striking "such colleges" in sections 104(a)(2) and 111(a)(2) and inserting "such colleges and universities";

(7) by striking "COMMUNITY COLLEGES" in the heading of section 107 and inserting "COLLEGES AND UNIVERSITIES";

(8) by striking "such college" each place it appears in sections 108(a), 113(b)(2), 113(c)(2), 302, 303, 304, and 305 and inserting "such college or university";

(9) by striking "such colleges" in section 109(b) and inserting "such college or university";

(10) in section 110(a)(4), by striking "Tribally Controlled Community Colleges" and inserting "tribally controlled colleges and universities";

(11) by striking "COMMUNITY COLLEGE" in the heading of title III and inserting "COLLEGE AND UNIVERSITY";

(11) by striking "that college" in sections 302(b)(4) and 305(a) and inserting "such college or university"; and

(12) by striking "other colleges" in section 302(b)(4) and insert "other colleges and universities".

(b) TITLE I ELIGIBLE GRANT RECIPIENTS.—Section 103 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1804) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) has been accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority as to the quality of training offered, or is, according to such an agency or association, making reasonable progress toward such accreditation.".

(c) ELIGIBILITY AND ACCREDITATION.—Section 106 of such Act (25 U.S.C. 1806) is amended—

(1) in the section heading, by inserting "AND ACCREDITATION PROGRAM" after "STUDIES";

(2) by redesignating subsection (c) as subsection (d); and

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

"(c) The Secretary of Education shall assist tribally controlled colleges and universities in the development of a national accrediting agency or association for such colleges and universities.".

(d) AMOUNT OF TITLE I GRANTS.—Section 108(a)(2) of such Act (25 U.S.C. 1808(a)(2)) is amended by striking "$5,820" and inserting "$6,000".

(e) CLERICAL AMENDMENT.—Section 109 of such Act (25 U.S.C. 1809) is amended by redesignating subsection (d) as subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS FOR TITLE I.—Section 110 of such Act (25 U.S.C. 1810) is amended—

(1) by striking "1993" each place it appears and inserting "1999"; and

(2) in subsection (a)(2), by striking "$30,000,000" and inserting "$40,000,000".

(g) AUTHORIZATION OF APPROPRIATIONS FOR TITLES III AND IV.—Sections 306 and 403 of such Act (25 U.S.C. 1836, 1852) are each amended by striking "1993" and inserting "1999".

SEC. 952. REAUTHORIZATION OF PROVISIONS FROM HIGHER EDUCATION AMENDMENTS OF 1992.

Title XIII of the Higher Education Amendments of 1992 (25 U.S.C. 3301 et seq.) is amended by striking "1993" each place it appears in sections 1348, 1365, and 1371(e), and inserting "1999".

SEC. 953. REAUTHORIZATION OF NAVAJO COMMUNITY COLLEGE ACT.

Section 5(a)(1) of the Navajo Community College Act (25 U.S.C. 640c–1) is amended by striking "1993" and inserting "1999".

AMENDMENT NO. 22 OFFERED BY MR. FOLEY

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. FOLEY:

Page 346, after line 24, insert the following new part (and conform the table of contents accordingly):

Part C—General Education Provisions Act

SEC. 961. ACCESS TO RECORDS CONCERNING CRIMES OF VIOLENCE.

Section 444(h) of the General Education Provisions Act (20 U.S.C. 1232g(h)) is amended to read as follows:

"(h) DISCIPLINARY RECORDS.—(1) Nothing in this section shall prohibit an educational agency or institution from—

"(A) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

"(B) disclosing such information to teachers and school officials, including teachers

and school officials in other schools, who have legitimate educational interests in the behavior of the student.

"(2) Nothing in this section shall prohibit any post-secondary educational agency or institution from disclosing disciplinary records of any kind which contain information that personally identifies a student or students who have either admitted to or been found to have committed any act, which is a crime of violence (as that term is defined in section 16 of title 18, United States Code), in violation of institutional policy, either as a violation of the law or a specific institutional policy, where such records are directly related to such misconduct.".

Mr. FOLEY. Mr. Chairman, I rise in full support of the Higher Education Amendments of 1998, H.R. 6, and want to commend the fine work of the gentleman from Pennsylvania (Mr. GOODLING) for his efforts and labor of love on this important issue facing Americans, and that is higher education. This legislation will certainly go a long way to ensure that higher education remains an affordable option for our Nation's families.

I also want to commend the members of the Committee on Education and the Workforce for including in H.R. 6 important provisions of a bill that I cosponsored, the Accuracy in Crime Reporting Act. These provisions in H.R. 6 will improve the accuracy of information that parents and students receive about the dangers that exist on many of our college campuses.

I would like to take a moment to read from my hometown newspaper's editorial, the Sun-Sentinel, which appeared April 10, 1998. The editorial is titled Demand Accurate Crime Statistics From Colleges in Return for Funds.

College campuses are supposed to be sanctuaries of vigorous inquiry and quiet contemplation where truth and knowledge can be pursued in an atmosphere of security, dignity and mutual respect. But that academic ideal has become the exception rather than the rule at far too many contemporary colleges and universities, where the current epidemic of drug abuse, underage drinking, illegal gambling, sexual assault and violent crime have been one of the best-kept secrets in American society. Statistics compiled by Security on Campus, Inc., a nonprofit organization dedicated to making institutions of higher learning more accountable to the public, indicate that nationwide, 65 percent of fraternity members and 55 percent of sorority sisters can be characterized as binge drinkers, 15 percent to 20 percent of all students are recent users of illegal drugs and student-on-student offenses account for 80 percent of campus crime. Many, if not most, of these crimes never make it onto the police blotter or into the news media because of college officials' overly expansive definition of student privacy and law enforcement authorities' reluctance to infringe on the tradition of academic freedom. Increasingly, however, campus violence is reaching a point where it cannot easily be ignored or swept under the rug by the colleges' internal disciplinary systems. Students are dying of drug abuse, overdose and alcohol poisoning at an alarming rate. Rapes and murders on campuses are growing national problems.

However, by providing this amendment, I do want to clarify certain provisions of the Family Educational Rights and Privacy Act, known as FERPA. By preventing postsecondary institutions from disclosing education records to the public without the consent of students, FERPA guarantees that student academic and financial information remains confidential. This important protection should continue. However, the Department of Education has wrongly concluded that FERPA prevents universities from releasing to the public the results of campus disciplinary actions or proceedings. Under this interpretation of FERPA, student criminal activities like aggravated assault and rape are protected along with legitimately protected grade and financial aid information. This interpretation is wrong.

Escalating violence on college campuses across the Nation require that Congress clarify the intent of FERPA. I fully believe, Mr. Chairman, that every student has the right to privacy. But when a university finds through its own disciplinary proceedings that a student has committed an act of violence, such as sexual assault, the university community has a right to know about it. While I believe that campus disciplinary proceedings should be open to the public, I can appreciate the concerns many have raised against such a course of action.

Therefore, the amendment I am offering today simply removes the FERPA protection of disciplinary records that personally identifies a student who has either admitted to or been found to have committed any act of violence either as a violation of law or specific institutional policy. My amendment does not require any new obligation to disclose these records. On the contrary, it deregulates the issue from Federal purview and allows State public record law and common sense to take over.

When violence occurs on campuses, the university community needs to know about it. Only then will students be able to take appropriate precautions. I appreciate the leadership's willingness to work with us on this issue. I offer the amendment in the spirit of allowing parents, children and students to have access to this very vital and important information.

Mr. GOODLING. Mr. Chairman, I rise in support of the amendment. The Clery family from Pennsylvania lost a beautiful daughter some years ago who competed in tennis against my daughter because of a violent crime on the campus of Lehigh University. They have dedicated the rest of their lives to preventing other families from suffering the same tremendous loss. This is our continuing effort to help the Clerys in their fight to make college campuses crime-free.

The amendment continues the longstanding policy of protecting personally identifiable information included in a student's education record. However, it does not protect disciplinary records of students who have admitted to or been found to have committed any act that is a crime of violence. Information related to crimes of violence should not be protected from disclosure if we truly want our college campuses to be safe environments for all students. If students do not know about violent offenders in their college community, how will they know how to protect themselves? The records which may be disclosed under the gentleman's amendment are those which are directly related to a crime of violence which the offender has admitted to or been found to have committed. A crime of violence means an offense that has as an element the use, attempted use or threatened use of physical force against the person or property of another; or any other felony offense that by its nature involves a substantial risk that physical force against the personal property of another may be used in the course of committing the offense.

We should not be protecting these acts of violence simply because they occur on our Nation's college campuses. I support the gentleman's amendment. As I have said many times, up until recent years, I always thought that this violence was perpetrated by those who were coming from the town or community around onto the college campus, only to find out that drugs and alcohol are causing many violent crimes, particularly against women, on college campuses. I support the amendment.

□ 1615

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me say that I rise today in strong support of the Foley amendment as well as H.R. 6, the Higher Education Amendments Act of 1998. I want to commend the gentleman from Florida (Mr. FOLEY) and the gentleman from Pennsylvania (Mr. GOODLING) for bringing this legislation to the floor and this amendment to the floor, as well as my colleagues on the Committee on Education and the Workforce for their fine work on this very, very important issue.

The amendment before us today will strengthen this higher education bill by rectifying an extremely troublesome situation regarding campus crime reporting.

As my good friend from Florida has explained, in 1974 the Family Educational Rights and Privacy Act was passed to protect the privacy rights of students and their educational records. Unfortunately, colleges and universities are using this law to hide violent crimes statistics from their student body as well as prospective students and parents. This is outrageous. By hiding this information, students are

put at risk because they do not know when a violent crime has been committed by a student or if that student remains even on campus. We need to give parents and students the information that accurately measures the dangers that are present on many college campuses today.

We tried to solve some of this last year when we passed my legislation which made it a felony crime and threw the book at those that would use the drug Rohypnol against unsuspecting female students on campuses, and that bill has made a lot of difference. I do not think anyone is naive enough to believe that their campus is devoid of all crime. However, by trying to avoid bad publicity and hiding violent crime statistics, colleges and university administrators are playing a deadly game with the safety of their students.

The Foley amendment lessens the danger on campuses by doing away with the Federal prohibition on informing the public when a student has committed a violent crime. By supporting this amendment we can make our colleges and universities a safer place for students. Mr. Chairman, I urge all my colleagues to join me in supporting the Foley amendment.

Before I close, Mr. Chairman, I would just like to say that I would like to commend my colleagues for supporting the Souder amendment, passed last night by a voice vote. This amendment strengthens the provision based on legislation that I had introduced which suspends Federal financial funds to students who have been convicted of any Federal or State drug use. The amendment offered by my good friend, the gentleman from Indiana (Mr. SOUDER) reinforces this language by requiring that along with rehabilitation, a student must test negative for two unannounced drug tests to be eligible for Federal education benefits. I supported this additional language and appreciate his invaluable support on this important issue to identify those students with drug problems and put them on the road to recovery.

Mr. Chairman, as my colleagues know, a number of years ago we passed the Solomon amendment which suspended the drivers' licenses of all people who were convicted of drug felonies, either selling or using drugs. As my colleagues know, that legislation now has swept the Nation. In New Jersey alone, they have revoked 10,000 drivers' licenses, which means we removed 10,000 drug users from the highways. Many of those people have been rehabilitated now because that license meant so much to them, and now they are obeying the law, they are drug-free, and they have their licenses back. This is the kind of legislation that we need to focus these young men and women on to make sure we are going to have a drug-free society.

Again I commend the gentleman from Florida (Mr. FOLEY) and the gentleman from Pennsylvania (Mr. GOODLING) for the excellent legislation. I hope we all come over and vote for the Foley amendment, and then let us pass this great bill.

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

Mr. Chairman, I thank the gentleman from Florida (Mr. FOLEY) for offering this important amendment to the reauthorization of the Higher Education Act.

When a student makes the decision of what college or university to attend, this is one of the most important decisions in their lives. Unfortunately, our Nation's students are not able to make an informed decision about what college to attend because they do not have all the facts regarding each and every institution.

The Family Education Rights and Privacy Act provides institutions of higher education a method in which they may hide crime statistics from the public. Criminal misconduct can be filed away in confidential student grade and financial records.

The Foley amendment would seek to rectify this most serious abuse of the Family Education Rights and Privacy Act by permitting colleges and universities to tell their student bodies the names of students found to have committed violent crime. This knowledge would then be incorporated into the campus crime statistics. This will provide students with much needed information about the colleges they are attending or may choose to attend. Students and parents require this important information in order to make an informed decision about an institution as well as to empower them to make the necessary safety precautions when attending an institution.

In Pennsylvania, this initiative has been led and championed by the Cleary family, whose daughter was tragically murdered on a campus in Pennsylvania. We certainly do not want to see a repeat of this, and I compliment the Cleary family and the gentleman from Florida (Mr. FOLEY) for their leadership in moving this forward nationally.

The Foley amendment will not in any way expose victims or innocent students to the public. I believe that this is a well-balanced solution to the problem. The provisions will only apply to those who are found guilty by a university's plenary committee to have committed a conduct-code infraction involving a violent crime. When a violent act is committed, the campus community and indeed the community in general have a right to know. This amendment will provide this knowledge to the community.

Again I would like to thank the gentleman from Florida (Mr. FOLEY) for his leadership in offering this amendment and to the gentleman from Pennsylvania (Mr. GOODLING), and I urge my colleagues to adopt the amendment.

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

Mr. Chairman, I am here today in support of the amendment offered by the gentleman from Florida (Mr. FOLEY), but I was troubled by a comment that was made, a statistic, even though it may be true, about a high number of incidents of fraternities and sororities engaged in drinking and drug use on campus. While I know there are incidents that happen on campuses today, as they did when I was in college, and I know they probably always will with regard to alcohol and abuse of alcohol, but I do not want the impression left, Mr. Chairman, that all sororities and all fraternities and all students on all campuses engage in this kind of activity unlawfully. There are a number of national fraternity organizations, national sorority organizations, and nonfraternity and sorority organizations, the dorm leadership, employees and others who are very concerned about the alcohol problem, and they are making a very concerted effort in a very proper way to stop this kind of abuse on campus.

So while I do commend the gentleman for his amendment and realize that we need to have some statistical information that is appropriate under the circumstances I think we also have to recognize that on campuses today there is a very large group of students, Greek and non-Greek alike, who care very deeply about good conduct on campus and an anti-alcohol and anti-drug abuse program. So I do not want the impression left that all Greeks and all, as my colleagues know, non-Greeks alike are abusive of alcohol and drugs, because they are not. And we have incidents around the country that show that there are problems with alcohol abuse and drug abuse, but there are an awful lot of good kids and an awful lot of good fraternities and sororities who are making a very strong effort to stop this kind of activity and speaking out very forcefully in favor of an anti-drug abuse and anti-alcohol policy.

So with that, I would be happy to support the amendment.

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

Mr. NETHERCUTT. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Chairman, I appreciate the gentleman from Washington making those notations, and I think it is important to note when college fraternities and sororities have taken it upon themselves to change some of the behaviors among their peers, and I think it is laudable that we signal that there is a change on campuses now in that direction.

And I also wanted to, if I could, intrude on your time just to thank a

school board member from Palm Beach County, Diane Heinz, Security on Campus, Howard and Connie Cleary, and my own staffer, Shawn Gallagher, who have worked very, very tirelessly on bringing this amendment to the floor and including it in the bill.

Mr. DUNCAN. Mr. Chairman, I rise in support of the Foley Amendment which would amend the federal academic privacy laws to exclude criminal actions.

I think that most people would think that matters like grades and financial aid records should be private matters between a student and his or her parents and their college or university. These records should not be released to the public. However, I think it is wrong that some students and colleges use these privacy laws to hide criminal acts.

This amendment is based on provisions of my bill H.R. 715, the Accuracy in Campus Crime Reporting Act. Both USA Today and the New Republic have supported my bill in full length stories. Both publications especially liked this bill because it amended the academic privacy laws. They do not think that federal law should be used to protest murderers and rapists.

At this time, the Department of Education is suing Miami University of Ohio to prevent them from obeying a Ohio Supreme Court ruling which ordered such criminal records to be released.

USA Today summarized the issue of federal law being used to protect and hide criminal activity:

The government argues that university criminal records constitute 'academic records' and therefore should be as private as student grades.

This outrage is just the [Education] Department's latest attempt to protect colleges' reputations at the expense of student safety. . . .

The Education Department is supporting a last-ditch effort by some universities to bury information about campus crimes. Students involved in criminal acts are commonly encouraged to use a college's private disciplinary board instead of the public criminal justice system.

USA Today concluded:

. . . it's a sad state of affairs when an act of Congress is necessary for the Education Department to protect students' safety.

I have been concerned about this issue for a long time and have been happy to work with Congressman FOLEY on this issue. I believe that this amendment will do a lot to make our campuses safer places by making students, their parents, and the general public aware of the dangers that exist on many college campuses.

Mr. SCHUMER. Mr. Chairman, as a supporter of H.R. 6, I'd like to draw your attention to part of the bill I helped author—the campus crime provisions.

Despite our best efforts with the 1990 Campus Crime bill, parents and students still don't know how safe their campuses are.

Colleges' typical reports of 3 or 4 burglaries, sexual assaults and alcohol violations are far too small to be believed by anyone—even the colleges themselves.

The bill we're considering today will bring us one step closer to our goal of making sure that parents have the information they need about campus safety.

The bill expands the people obligated to report crimes, expands the types of crime to be reported and, for the first time, opens up campus crime reports to the public through a campus crime log.

The log documents where, when and what crimes occur on campus.

Making these crime reports public will hold schools accountable for their accuracy.

Parents deserve to know how safe their children's campus is. And the campus security provisions of this bill will help them make that determination.

I want to thank the U.S. Students' Association, Chairman GOODLING and Representative DUNCAN for all their hard work on this issue.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Florida (Mr. FOLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any further amendments to title IX?

If not, the Clerk will designate title X.

The text of title X is as follows:

TITLE X—FACULTY RETIREMENT PROVISIONS

SEC. 1001. VOLUNTARY RETIREMENT INCENTIVE PLANS.

(a) IN GENERAL.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end the following:

"(m) Notwithstanding subsection (f)(2)(B), it shall not be a violation of subsection (a), (b), (c), (e), or (i) solely because a plan of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) offers employees who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) additional benefits upon voluntary retirement that are reduced or eliminated on the basis of age, if—

"(1) such institution does not implement with respect to such employees any age-based reduction or elimination of benefits that are not such additional benefits, except as permitted by other provisions of this Act; and

"(2) with respect to each of such employees who have, as of the time the plan is adopted, attained the minimum age and satisfied all non-age-based conditions for receiving a benefit under the plan, such employee is not precluded on the basis of age from having 1 opportunity lasting not less than 180-days to elect to retire and to receive the maximum benefit that would be available to a younger employee if such younger employee were otherwise similarly situated to such employee.".

(b) CONSTRUCTION.—

(1) APPLICATION.—Nothing in the amendment made by subsection (a) shall be construed to affect the application of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) with respect to—

(A) any employer other than an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); or

(B) any plan not described in subsection (m) of section 4 of such Act (as added by subsection (a)).

(2) RELATIONSHIP TO PROVISIONS RELATING TO VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—Nothing in the amendment made by subsection (a) shall be construed to imply that a plan described in subsection (m) of section 4 of such Act (as added by subsection (a)) may not be considered to be a plan described in section 4(f)(2)(B)(ii) of such Act (29 U.S.C. 623(f)(2)(B)(ii)).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) EFFECT ON CAUSES OF ACTION EXISTING BEFORE DATE OF ENACTMENT.—The amendment made by subsection (a) shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 prior to the date of enactment of this Act.

The CHAIRMAN pro tempore. Are there any amendments to title X?

If not, the Clerk will designate title XI.

The text of title XI is as follows:

TITLE XI—OFFSETS REQUIRED

SEC. 1101. ASSURANCE OF OFFSETS.

(a) DECLARATION.—None of the provisions in this Act should take effect unless it contains the mandatory offsets set forth in subsection (b).

(b) ENUMERATION OF OFFSETS.—The offsets referred to in subsection (a) are provisions that—

(1) change the definition of default contained in section 435(l) to extend the period of delinquency prior to default by an additional 90 days;

(2) capitalize the interest accrued on unsubsidized and parent loans at the time that the borrower enters repayment;

(3) recall $65,000,000 in guaranty agency reserves, in addition to the amount required to be recalled pursuant to the amendments in section 422 of the Higher Education Act of 1965 contained in this Act;

(4) eliminate the dischargeability in bankruptcy of student loans made after the date of enactment of this Act for the cost of attendance for a baccalaureate or advanced degree, and for which the first payment was due more than seven years before the commencement of the bankruptcy action; and

(5) sell sufficient commodities from the National Defense stockpile to generate receipts of $80,000,000 in fiscal year 1999 and $480,000,000 over five years.

The CHAIRMAN pro tempore. Are there any amendments to title XI?

If not, are there any amendments to the end of the bill?

AMENDMENT NO. 80 OFFERED BY MR. KENNEDY OF MASSACHUSETTS

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 80 offered by Mr. KENNEDY of Massachusetts:

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

TITLE XI—ALCOHOL CONSUMPTION

SEC. 1101. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, in an effort to change the culture of alcohol consumption on college campuses, all college and university administrators should adopt the following code of principles:

(1) For an institution of higher education, the president of the institution shall appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at

the institution. The task force will make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution shall provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution shall provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities

(3) The institution shall enforce a "zero tolerance" policy on the illegal consumption and binge drinking of alcohol by its students and will take steps to reduce the opportunities for students, faculty, staff, and alumni to legally consume alcohol on campus.

(4) The institution shall vigorously enforce its code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems shall be referred to an on-campus counseling program.

(5) The institution shall adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It shall adopt polices limiting the advertisement and promotion of alcoholic beverages on campus.

(6) Recognizing that school-centered policies on alcohol will be unsuccessful if local businesses sell alcohol to underage or intoxicated students, the institution shall form a "Town/Gown" alliance with community leaders. That alliance shall encourage local commercial establishments that promote or sell alcoholic beverages to curtail illegal student access to alcohol and adopt responsible alcohol marketing and service practices.

Mr. KENNEDY of Massachusetts. Mr. Chairman, first of all, I want to express my thanks and gratitude to the chairman of the committee, the gentleman from California (Mr. MCKEON) and as well as to the gentleman from Michigan (Mr. KILDEE) who has done a tremendous job on this committee for so many years.

This amendment should not take long, because of the agreements between both sides of the aisle on the important issue of binge drinking that continues to plague college students. A recent Harvard study found that more than 40 percent of college students are binge drinking these days. As far-fetched as it may sound, in 1991 students spent more money on alcohol, over $5 billion, than on books. In colleges all across this country, alcohol abuse has become the unofficial college sport, sometimes with deadly consequences.

Alcohol is one of the leading causes of death, in fact the No. 1 cause of death of young people under the age of 24. Students at schools with high levels of binge drinking are three times more likely to be victims of sexual assault and violence. In the latest report, the Chronicle of Higher Education found that alcohol-related arrests on college campuses jumped 10 percent in 1996 alone.

Mr. Chairman, I ask that my colleagues join me in offering an amendment expressing the sense of the House that college administrators should adopt a code of principles and practices to first offer alcohol-free alternatives for students in terms of dorms, dances, concerts, and other kinds of activities; second, to work with local merchants to prevent alcohol sales to minors; third, to enforce a zero-tolerance policy for illegal alcohol and drug use on campus; and fourth, to provide alcohol and drug education and prevention and treatment on campuses and to discourage and limit alcohol sponsorship of on-campus events.

With that I want to thank again the gentleman from Indiana (Mr. SOUDER) who worked very hard with us on the committee for his hard work and his diligence, and I look forward to rapid movement on this amendment.

Mr. GOODLING. Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. Chairman, I want to thank the gentleman for bringing the program to our attention. Although it currently exists in the Elementary and Secondary Education Act, it is appropriate that we include it in the Higher Education Act.

□ 1630

Combating illegal drug and alcohol use on our college campuses is vital to the well-being of our Nation's college students.

During the committee's consideration of H.R. 6, we adopted the amendment offered by the gentleman from Indiana (Mr. SOUDER) and long championed by the gentleman from New York (Mr. SOLOMON) to prohibit students convicted of drug offenses from receiving Federal student aid until they have completed a rehabilitation program and get the help they need to fight their abuse problem.

Encouraging institutions of higher education to develop and implement drug and alcohol abuse prevention programs should serve to help combat the ongoing problems this country faces related to drug and alcohol abuse and the violence often associated with both.

Mr. Chairman, I support the gentleman's amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

AMENDMENT NO. 64 OFFERED BY MR. LIVINGSTON

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 64 offered by Mr. LIVINGSTON:

Add at the end the following new title (and conform the table of contents accordingly):

TITLE XI—PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS

SEC. 1101. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.

(a) PROTECTION OF RIGHTS.—It is the sense of the House of Representatives that no student attending an institution of higher education on a full- or part-time basis should, on the basis of protected speech and association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division directly or indirectly receiving financial assistance under the Higher Education Act of 1965, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(b) SANCTIONS FOR DISRUPTION PERMITTED.—Nothing in this section shall be construed to discourage the imposition of an official sanction on a student that was willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education.

(c) DEFINITIONS.—For the purposes of this section:

(1) PROTECTED SPEECH.—The term "protected speech" means speech that is protected under the 1st and 14th amendments to the United States Constitution, or would be so protected if the institution of higher education were subjected to those amendments.

(2) PROTECTED ASSOCIATION.—The term "protected association" means the right to join, assemble, and reside with others that is protected under the 1st and 14th amendments to the United States Constitution, or would be protected if the institution of higher education were subject to those amendments.

(3) OFFICIAL SANCTION.—The term "official sanction"—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

Mr. LIVINGSTON. Mr. Chairman, a number of colleges throughout this country are vigorously attacking their students' constitutionally protected right of free speech and association. The controversy centers on a decision by some private schools to ban all single-sex organizations like fraternities and sororities and restrict any student involvement with them, even if it is off campus and on their own time. Punishments for such offenses range from possible suspension to expulsion.

Mr. Chairman, disciplining students for attending a fraternity or sorority dinner, or a women's Bible study, or a YMCA event is obviously clearly a violation of the constitutionally protected rights of association and free speech. Public institutions are strictly prohibited from violating these rights, and they cannot bar single-sex organizations like fraternities and sororities without just cause.

Private colleges argue that they are not subject to the same constitutional statutory restrictions as public institutions. The colleges cite court rulings dating back to the Supreme Court's Dartmouth College case in 1819. Unfortunately, though, unlike the Dartmouth College case of 1819, many of the

private colleges are today not truly private.

For example, many of these institutions receive State and Federal funding. Donations to them are exempt from taxation and, likewise, their property and income are often provided tax advantages, even though many private colleges own and operate businesses dealing directly with the public.

The right of association is well established, Mr. Chairman, in the Constitution. In *Healy* v. *James*, the Supreme Court said that the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools. The college classroom and its surrounding environment is the marketplace of ideas, and there is no new constitutional ground broken by reaffirming this Nation's dedication to safeguarding academic freedom.

Now, this amendment will simply express the sense of the House on this matter. It does not force schools to officially recognize student organizations. However, it will put Congress on record defending the rights of students who face expulsion and other severe consequences by daring to enjoy their most basic constitutional freedoms of speech and association, often off campus and on their own time.

This amendment of mine has the support of a number of organizations which reach across the political spectrum, including the Coalition for Freedom of Association, the Traditional Values Coalition, the ACLU, the National Interfraternity Conference, the U.S. Public Interest Research Group, the National Panhellenic Association, the Fraternity Executives Association, the Christian Coalition, and hundreds of local sororities and fraternities nationwide.

Mr. Chairman, our Nation has, since its inception, held that individuals have the right to associate and speak freely. In addition, our Nation has long recognized single-sex organizations, and we value their important contribution to our society. Students attending private colleges have the right to enjoy the same freedoms of association and speech that all of us hold everywhere else as American citizens. We owe it to them and to all of those who sacrifice so much for those freedoms to adopt my amendment.

Mr. Chairman, I urge the adoption of this amendment.

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

Mr. Chairman, the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON), the chairman of the Committee on Appropriations, would express the strong sense of this body that colleges and universities which accept Federal funds under the Higher Education Act should not restrict their students' rights to free speech or association, as protected under the first and the fourteenth amendments to the Constitution.

Recently, Members of this body have become concerned over efforts by some colleges and universities to restrict the actions of certain groups on these campuses. These efforts have included restrictions being placed on certain groups. In at least one instance, a school took action against students simply for wearing Greek letters on their clothing.

Throughout the reauthorization process, we have tried to reduce the regulatory burden placed on institutions of higher education, and we have attempted to avoid leveling mandates from Washington on schools. The gentleman's amendment sends a strong signal to schools which participate in programs funded under the Higher Education Act that we intend for them to honor the rights of their students under the Constitution, but it does so in a way that does not create a new mandate or pit the rights of the institution against those of the students.

Mr. Chairman, I urge a "yes" vote on this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. LIVINGSTON).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 81 OFFERED BY MR. KENNEDY of massachusetts

Mr. KENNEDY of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 81 offered by Mr. KENNEDY of Massachusetts:

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

TITLE XI—DRUG AND ALCOHOL PREVENTION

SEC. 1101. DRUG AND ALCOHOL ABUSE PREVENTION.

(a) GRANTS AND RECOGNITION AWARDS.—Section 111, as redesignated by section 101(a)(3)(E), is amended by adding at the end the following new subsections:

"(e) ALCOHOL AND DRUG ABUSE PREVENTION GRANTS.—

"(1) PROGRAM AUTHORITY.—The Secretary may make grants to institutions of higher education and consortia of such institutions and contracts with such institutions and other organizations to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and their associated violence. Such contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention which will provide training, technical assistance, evaluation, dissemination and associated services and assistance to the higher education community as defined by the Secretary and the institutions of higher education.

"(2) AWARDS.—Grants and contracts shall be made available under paragraph (1) on a competitive basis. An institution of higher education, a consortium of such institutions, or other organizations which desire to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

"(3) ADDITIONAL REQUIREMENTS.—The Secretary shall make every effort to ensure—

"(A) the equitable participation of private and public institutions of higher education (including community and junior colleges), and

"(B) the equitable geographic participation of such institutions,

in grants and contracts under paragraph (1). In the award of such grants and contracts, the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(f) NATIONAL RECOGNITION AWARDS.—

"(1) AWARDS.—For the purpose of providing models of alcohol and drug abuse prevention and education (including treatment-referral) programs in higher education and to focus national attention on exemplary alcohol and drug abuse prevention efforts, the Secretary of Education shall, on an annual basis, make 10 National Recognition Awards to institutions of higher education that have developed and implemented effective alcohol and drug abuse prevention and education programs. Such awards shall be made at a ceremony in Washington, D.C. and a document describing the programs of those who receive the awards shall be distributed nationally.

"(2) APPLICATION.—

"(A) IN GENERAL.—A national recognition award shall be made under paragraph (1) to institutions of higher education which have applied to such award. Such an application shall contain—

"(i) a clear description of the goals and objectives of the alcohol and drug abuse programs of the institution applying.

"(ii) a description of program activities that focus on alcohol and other drug policy issues, policy development, modification, or refinement, policy dissemination and implementations, and policy enforcement;

"(iii) a description of activities that encourage student and employee participation and involvement in both activity development and implementation;

"(iv) the objective criteria used to determine the effectiveness of the methods used in such programs and the means used to evaluate and improve the program efforts;

"(v) a description of special initiatives used to reduce high-risk behavior or increase low risk behavior, or both; and

"(vi) a description of coordination and networking efforts that exist in the community in which the institution is located for purposes of such programs.

"(B) ELIGIBILITY CRITERIA.—All institutions of higher education which are two- and four-year colleges and universities that have established a drug and alcohol prevention and education program are eligible to apply for a National Recognition Award. To receive such an Award an institution of higher education must be nominated to receive it. An institution of higher education may nominate itself or be nominated by others such as professional associations or student organizations.

"(C) APPLICATION REVIEW.—The Secretary of Education shall appoint a committee to

review applications submitted under subparagraph (A). The committee may include representatives of Federal departments or agencies whose programs include alcohol and drug abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department of Education.

"(D) REVIEW CRITERIA.—Specific review criteria shall be developed by the Secretary in conjunction with the appropriate experts. In reviewing applications under subparagraph (C) the committee shall consider—

"(i) measures of effectiveness of the program of the applicant that should include changes in the campus alcohol and other drug environment or climate and changes in alcohol and other drug use before and after the initiation of the program; and

"(ii) measures of program institutionalization, including an assessment of needs of the institution, the institution's alcohol and drug policies, staff and faculty development activities, drug prevention criteria, student, faculty, and campus community involvement, and a continuation of the program after the cessation of external funding.

"(3) AUTHORIZATION.—For the implementation of the awards program under this subsection, there are authorized to be appropriated $25,000 for fiscal year 1998, $66,000 for each of the fiscal years 1999 and 2000, and $72,000 for each of the fiscal years 2001, 2002, 2003, and 2004.

(b) REPEAL.—Section 4122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7132) is repealed.

Mr. KENNEDY of Massachusetts. Mr. Chairman, again, let me thank the gentleman from Pennsylvania (Mr. GOODLING), chairman of the Committee on Education and the Workforce, and the gentleman from California (Mr. MCKEON), as well as the gentleman from Michigan (Mr. KILDEE) for their support of this amendment.

A recent Harvard study found that 95 percent of all violent crimes and 90 percent of all rapes on college campuses are alcohol-related. Alcohol on campuses is a factor in 40 percent of all academic problems, and almost one-third of all college dropouts.

This should not come as any surprise to someone who has visited a college campus lately. From the very first day of school, students are bombarded with messages and promotions and peer pressure that encourage binge drinking. Local bars aggressively promote special offers like "ladies drink free" or "dollar pitchers" or "bladder bust." But, Mr. Chairman, colleges and universities around the country are trying to figure out how to deal effectively with excessive alcohol use.

There are some terrific programs that should serve as models. For example, at Northern Illinois University in the district of the gentleman from Illinois (Mr. HASTERT), binge drinking has dropped by 30 percent as a result of a program that includes alcohol-free housing. Nonetheless, we need to ensure that every college and university can offer comprehensive and effective drug and alcohol programs.

The amendment I am offering would provide grants for colleges to establish alcohol and drug treatment counseling and drug education and alcohol education. Secondly, this amendment authorizes the Secretary of Education to confer national recognition awards each year to 10 schools that successfully address alcohol and drug abuse on campus.

Binge drinking robs the best and brightest of our children's futures, their health and too often their lives. Let us give parents and students and colleges the resources they need to effectively combat alcohol and drug abuse on campus.

Mr. Chairman, as the gentleman from Michigan (Mr. KILDEE) once said to me, "Do not keep chasing a streetcar that you are already on," and in that regard, I will keep my remarks short.

Mr. GOODLING. Mr. Chairman, we rise in support of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 77 OFFERED BY MRS. MEEK OF FLORIDA

Mrs. MEEK of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:.

Amendment No. 77 Offered by Mrs. MEEK of Florida:

Page 349, after line 9, insert the following:

TITLE XI—EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES

SEC. 1101. DEMONSTRATION PROJECTS ENSURING EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES.

Subpart 2 of part A of title IV, as amended by section 405, is further amended by adding at the end the following:

CHAPTER 6—DEMONSTRATION PROJECTS ENSURING EQUAL OPPORTUNITY FOR INDIVIDUALS WITH LEARNING DISABILITIES

"SEC. 412A. PROGRAM AUTHORITY.

"(a) IN GENERAL.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, not more than 5 institutions of higher education that are described in section 412B for demonstration projects to develop, test, and disseminate, in accordance with section 412C, methods, techniques, and procedures for ensuring equal educational opportunity for individuals with learning disabilities in postsecondary education.

"(b) AWARD BASIS.—Grants, contracts, and cooperative agreements shall be awarded on a competitive basis.

"(c) AWARD PERIOD.—Grants, contracts, and cooperative agreements shall be awarded for a period of 3 years.

"SEC. 412B. ELIGIBLE ENTITIES.

"Entities eligible to apply for a grant, contract, or cooperative agreement under this chapter are institutions of higher education with demonstrated prior experience in meeting the postsecondary educational needs of individuals with learning disabilities.

"SEC. 412C. REQUIRED ACTIVITIES.

"A recipient of a grant, contract, or cooperative agreement under this chapter shall use the funds received under this chapter to carry out each of the following activities:

"(1) Developing or identifying innovative, effective, and efficient approaches, strategies, supports, modifications, adaptations, and accommodations that enable individuals with learning disabilities to fully participate in postsecondary education.

"(2) Synthesizing research and other information related to the provision of services to individuals with learning disabilities in postsecondary education.

"(3) Conducting training sessions for personnel from other institutions of higher education to enable them to meet the special needs of postsecondary students with learning disabilities.

"(4) Preparing and disseminating products based upon the activities described in paragraphs (1) through (3).

"(5) Coordinating findings and products from the activities described in paragraphs (1) through (4) with other similar products and findings through participation in conferences, groups, and professional networks involved in the dissemination of technical assistance and information on postsecondary education.

"SEC. 412D. PRIORITY.

"The Secretary shall ensure that, to the extent feasible, there is a national geographic distribution of grants, contracts, and cooperative agreements awarded under this chapter throughout the States, except that the Secretary may give priority, with respect to one of the grants to be awarded, to a historically Black college or university that satisfies the requirements of section 412B.

"SEC. 412E. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter $10,000,000 for each of the fiscal years 1999 through 2001.".

Mrs. MEEK of Florida. Mr. Chairman, I thank the committees and the people who helped to bring this piece of legislation and this amendment to the floor. I want to thank the gentleman from Michigan (Mr. KILDEE); I want to thank the gentleman from California (Mr. MCKEON); and I want to thank the gentleman from Missouri (Mr. CLAY), who has sort of mentored me since I have been here; also, the gentleman from Pennsylvania (Mr. GOODLING); and of course my colleague, the gentlewoman from Kentucky (Mrs. NORTHUP) and her staff, who have been very helpful in putting this amendment together.

Mr. Chairman, what we are doing here is trying to help college students who have learning disabilities, and this amendment will bring that help to college students which now is already being received by students in K through 12.

According to the National Institutes of Health, and I must cut this short because the gentleman from Missouri

(Mr. CLAY) said they would take away the votes if I did not cut this discussion, but according to the National Institutes of Health, more than 39 million Americans have some type of learning disability. People really do not understand the impact of this disability, these disabilities.

The gentlewoman from Kentucky (Mrs. NORTHUP) and I cochair the Reading Caucus. Thanks to the gentlewoman, we are working on many of these problems, and this particular amendment, added to the Higher Education Act, will certainly focus the attention of the Nation on the need of helping college students with learning disabilities.

Many of these college students are very, very bright. They make excellent mathematicians, excellent academicians, but they do not read that well due to learning disabilities. Some of these learning disabilities are very well-known and others are not.

What we are saying here is that there are many, many things that colleges and universities can be doing, Mr. Chairman, in the area of auditory and visual kinds of learning devices, helping teachers learn how to teach these students better; being sure that the whole universe of education and higher education will understand the kinds of modalities and the types of learning techniques that can be utilized in helping these students. We feel that the Federal Government, to a great extent, is going to help in doing this by providing free and appropriate education for students who are in higher education.

Rather than break my vow, Mr. Chairman, I would like to say that when we get this in the Higher Education Act, it will mean a lot to many students. Think of them. Either we help them now, or we help them later. Many of the students who come into college with poor reading ability never get anyplace, even though they are very bright students, but because of their lack of reading ability, they have a problem.

So I appreciate so much the committee and the Members who have helped us put this together. It is a problem, and it is a modest step toward filling the gap. But we do know we are making a start here, the gentlewoman from Kentucky (Ms. NORTHUP) and I, and we are encouraged by this inclusion in the Higher Education Act.

MODIFICATION TO AMENDMENT NO. 77 OFFERED BY MRS. MEEK OF FLORIDA

Mrs. MEEK of Florida. Mr. Chairman, I ask unanimous consent to modify my amendment with the modification that is already at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification to the amendment offered by the gentlewoman from Florida (Mrs. MEEK).

The Clerk read as follows:

Modification to amendment No. 77 offered by Mrs. MEEK of Florida:

In the matter proposed to be added to the Higher Education Act of 1965 by the amendment, strike proposed section 412D and redesignate proposed section 412E as section 412D.

The CHAIRMAN pro tempore. Is there objection to the modification to the amendment offered by the gentlewoman from Florida (Mrs. MEEK)?

There was no objection.

Mr. GOODLING. Mr. Chairman, we accept the amendment of the lovely lady from Miami (Mrs. MEEK).

Mrs. NORTHUP. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to speak in favor of this amendment and to thank the gentlewoman from Florida (Mrs. MEEK) for bringing it to the attention of this body.

As the mother of six children, I understand the frustration of trying to ensure that one's child receives the very best education available. If one's child has a learning disability, we know the frustration and the hopelessness of searching for the answers to provide one's son or daughter with the tools necessary for him or her to succeed in this world.

The gentlewoman from Florida (Mrs. MEEK) and I have had an opportunity to work closely together to ensure that children that have learning disabilities have a better opportunity to receive early in their education an opportunity to learn to read and learn to read well, so that they can achieve at every level in their education.

□ 1645

But unfortunately, some children today do not receive that intervention and some children have gone through the early years of their schooling without having the opportunity to fully develop their talents in school in some areas in which they are disabled. But that does not mean that they may not be very talented and students that can do very well in college.

Many colleges have struggled with giving these children better opportunities. They have set up programs for learning disabled kids and they are struggling to help them achieve at the highest level.

What this bill does is create five demonstration projects so that schools can look to the best examples of remediation in areas that children are weak so that in areas in which they are strong they can still be high achievers. We need every talent in our workplace today. We need for every child to be able to realize their dreams and their goals and their talents.

What this bill does is make sure that those children who have special needs and special talents receive the best opportunity at higher education levels so that they can become the chemists and the teachers and the people that are leaders in their areas tomorrow.

Mr. Chairman, I want to thank the gentlewoman from Florida (Mrs. MEEK) for all the time and energy she has put into this bill. She has been a leader on it. She has brought to the attention of many people in this Congress the problem of our talented children who are in higher education that have learning disabilities.

I believe this will not only help those kids that are being educated in these five institutions, but those other institutions around the country that are looking for the best examples so that they can pattern within their schools the best ways to help kids who are talented but struggling. I think this is good for a lot of children.

Mr. Chairman, I join the gentlewoman from Florida (Mrs. MEEK) in hoping that the Department of Education will seek out an institution that primarily serves minority students, since they are disproportionately represented in this population and ensure that one of those institutions will serve as an example.

Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for his willingness to accept this amendment.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the requisite number of words.

Unfortunately for many who suffer from a learning disability, there exists no cure. These serious impediments are a lifelong disorder for many and 15 percent of our population must learn to live with this disability. It is time that all of us as responsible Members of Congress address those 15 percent whose future in education depends on our actions here.

The amendment offered by the gentlewoman from Florida (Mrs. MEEK) and the gentlewoman from Kentucky (Mrs. NORTHUP) does just that. It will authorize the Secretary of Education to award grants, contracts, and cooperative agreements to institutions of higher education which competitively demonstrate methods, techniques and new approaches in educating students with learning disabilities.

Mr. Chairman, passing this amendment will be the first step in ensuring equal opportunities in post-secondary education for individuals with learning disabilities. Serious disorders such as dyslexia and attention hyperactivity disorder are currently affecting 2.6 million children who are diagnosed as learning disabled under the Individuals with Disabilities Education Act in elementary and secondary education.

Congress has already found that "2 percent of all undergraduate students nationwide report having a learning disability." In fact, we have already recognized that different teaching strategies are needed to enable those students to develop their talents and performance up to their capabilities.

Let us help those students by passing the Meek-Northup amendment. Mr. Chairman, I also thank the gentleman

from Pennsylvania (Chairman GOODLING), who has been very supportive and very cooperative on this serious issue.

Ms. BROWN of Florida. Mr. Chairman, I agree with my distinguished colleagues and support their groundbreaking initiative to offer legislation which will provide continued support for college and university students with learning disabilities and this includes students who are attending community colleges as well.

The most recent survey of college freshmen with disabilities reported that the number of students with learning disabilities is increasing and the percentage is now at 32% for college freshmen.

These non-traditional college students deserve a chance, and we have the legislative strength to make a difference in their lives today, tomorrow, and in the future.

Support for this amendment will send a message to America, that Members of Congress care and believe education is key for our nation.

Mr. TOWNS. Mr. Chairman, I rise today in strong support of the Meek-Northup learning disabilities amendment to H.R. 6, the Higher Education Reauthorization Act.

According to the National Institute of Health, there are 39 million Americans with learning disabilities. This amendment would ensure that young people with the ability to be high achievers can accomplish their goals to be doctors, engineers, lawyers, and teachers.

While there are Federal programs to help elementary and secondary school students with learning disabilities, there are none for college students. This vital legislation authorizes $10 million a year for five demonstration projects at colleges or universities. Each institution would be responsible for developing programs, strategies, and approaches for teaching individuals with learning disabilities at the college level. It would also ensure that teachers and institutions across this nation have access to a national repository of information on teaching the learning disabled student.

As our global economy moves toward the 21st century, such efforts would create a level playing field for all children of this great nation. Our children are our future. It is our responsibility to ensure that their future is bright. There must not be any children left behind.

Mr. Chairman, I urge my colleagues to vote "YES" on the Meek-Northup amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment, as modified, offered by the gentlewoman from Florida (Mrs. MEEK).

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT NO. 75 OFFERED BY MR. ROEMER

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 75 offered by Mr. ROEMER:

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

TITLE XI—SPECIAL PROVISION

SEC. 1101. TERMINATION OF EFFECTIVENESS.

Notwithstanding section 4 of this Act, subparagraph (K) of section 485(g)(1) of the Higher Education Act of 1965, as amended by this Act, shall cease to be effective on October 1, 1998.

The CHAIRMAN pro tempore. Pursuant to the order of the Committee of today, the gentleman from Indiana (Mr. ROEMER) and the gentleman from Illinois (Mr. HASTERT) each will control 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I offer this amendment in a bipartisan spirit with the gentleman from California (Mr. RIGGS), my friend, and I offer it to eliminate language in the bill that is a Federal mandate to our colleges and universities that is an intrusion into the way they conduct their business on a day-to-day basis and micromanages from Washington, D.C., schools across the country telling them how they should run their sports programs.

Now, we have heard constantly through the last couple of years that Washington, D.C. does not know best. Why is there language in this bill telling colleges and universities throughout the country the Washington way of running their sports programs?

Now, I encourage my colleagues and their staffs to read the language in the bill on page 246, and I quote from that language:

We are requiring in this language a statement of any reduction that may or is likely to occur during the next four academic years in the number of athletes that will be permitted to participate in any collegiate sport or in the financial resources that the institution will make available to any such sport, and the reasons for any such reduction.

So we are saying they have to tell the Federal Government any reduction that may or may be likely to occur and the reasons for that reduction.

Mr. Chairman, we have received letters from all over the country from universities and colleges from all over the country saying this is a Federal mandate. We do not want this language in the bill. We have received letters from the National Collegiate Athletic Association that I will enter into the RECORD. This says from the NCAA, and I quote, "this provision represents an unparalleled federal intrusion into the decision-making process of our nation's colleges and universities." An unparalleled Federal intrusion.

Now, I have, however, even with all of this, I have, I think, some understanding of why the language was put in the bill. When athletes and scholars at universities enroll in a university and then that wrestling program or that swimming program may be canceled, that leaves that scholar and that athlete in a very untenable situation and I have sympathy for that. But it is not sweeping the country. It is not something that is causing athletic departments and schools to shut down. And I point to the graph on my right where we have had a steady growth in the number of both men and women's programs, each of the ensuing academic years, more women participating, more men participating.

In addition to that, Mr. Chairman, here in 1996 and 1997, the number of programs added in that academic year in men and women's programs, added, 360 programs; dropped, 114. Added 360, dropped 114. Again, a steady growth in the number of men and women participating.

So I think that the need for this amendment is just simply not there. I empathize and I sympathize with those athletes at schools that close or shut down a particular athletic program. But the Federal Government should not be telling each and every university in the country you have got to do a four-year report ahead of time if it is likely or may occur. I do not think that that is the way we should be running this country with a Federal mandate. I strongly oppose that.

Mr. Chairman, I said I offered this in the spirit of bipartisanship with the gentleman from California (Mr. RIGGS), my friend. I offer this in the spirit of arguing against micromanaging our programs, against Federal intrusion, against "Washington knows best" and telling Indiana, Kentucky, California, Florida, Connecticut, telling all of those States and all of those schools how they should report to the Federal Government.

But, Mr. Chairman, I think one of the most compelling arguments is this. When we take the serious step in this country of shutting down a plant and employees lose their job, there is a 30-day notice for those employees that may lose their job. In this bill this language requires 4 years, 4 years ahead of time if colleges are thinking of changing an athletic program.

This is the higher education bill. We do not even say in this bill if they are going to shut down a French program, an abroad study program, or a mathematics computer program that they have to report to the Federal Government. But in this bill we say if they are thinking about canceling an athletic program they better report it. They better report it.

Mr. Chairman, we did the Contract for America and everything in that bill said, "No more Federal mandates." I encourage my colleagues to vote to strike this Federal mandate out of this bill.

Mr. Chairman, I include for the RECORD the letter from the NCAA referred to earlier.

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
Washington, DC, April 28, 1998.

DEAR MEMBER OF CONGRESS: On behalf of the 933 NCAA member colleges and universities, I am writing to urge your support for an amendment to be offered by Representatives Riggs and Roemer to the Higher Education Act Amendments of 1998 (H.R. 6). The

Riggs/Roemer amendment will strike a provision that was recently added by the Committee on Education and the Workforce related to institutional program decisions, specifically in the area of college athletics programs.

The provision of H.R. 6 would require all postsecondary institutions to report annually any changes that "may or are likely to occur" in any intramural or intercollegiate athletics program over the next four years and justify the decision. This provision was added without the benefit of hearings, discussion with the Committee's members or consultation with the higher education community. In order for institutions to continue to be eligible for federal student assistance, the provision requires the impossible—it asks institutions to predict the future. In addition, this provision represents an unparalleled federal intrusion into the decision-making process of our nation's colleges and universities.

NCAA member colleges and universities have added thousands of sports teams for men and women over the past 20 years. During the same time period, relatively few teams have been dropped. When a sports team is dropped, the welfare of the student-athlete is the first priority. Although the sponsors of the provision may have well-intended motives, this provision will have the unintended consequence of actually hastening the elimination of the very men's non-revenue sports it is intended to protect. By placing them on a list for possible elimination, it will serve as an early death notice to those teams.

The NCAA urges you to support the Riggs/Roemer amendment related to collegiate sports teams. Please contact Doris Dixon, NCAA director of federal relations (202-293-3050), if you have any questions about this provision or the NCAA's position.

Sincerely,

CEDRIC W. DEMPSEY.

Enclosure.

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

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana (Mr. ROEMER).

Mr. Chairman, it is interesting to listen to rhetoric. In fact, we need to understand what this provision in the bill really does. It is one of the foundations of our educational system that our kids should be taught the difference between right and wrong. Should we not teach our kids to be honest and forthright? And should we not teach our kids that rules apply equally to everyone?

Answering these questions is what today's debate and the Roemer amendment is all about. The Roemer amendment says that it is basically okay for colleges and universities not to tell prospective students that they plan to eliminate or reduce the funding for sports programs that kids plan to participate in once they enroll.

Mr. Chairman, I view this as a matter of honesty and simple fairness. I would ask anyone, should schools be able to hide from students the fact that they are planning to terminate their competitive sport, a sport that weighed heavily in their life decision about which school they should attend in the first place? And let me be clear, nothing in this provision prevents schools from eliminating sports programs nor does it require them to give 4-years' notice before they do so. I repeat, it does not require them to give 4-years' notice before they do so.

All this language requires is that once a school knows it is going to eliminate a team, they must notify the affected athletes by giving notice; not notice to the Federal Government, just notice in a yearly report.

□ 1700

In effect, this notification could take place 1 or 2 or 3 years before the actual termination. The key point is, once they decide, they need to disclose.

Colleges and universities enjoy a special position in this country. As parents, we entrust them with the education of our children. In return, we should expect that they act in a manner that justifies this trust, and that certainly does not include making decisions which affect our kids' lives without honestly disclosing those decisions to them.

I, for myself, cannot believe that Congress will send the message to college students that it is all right for schools to knowingly not tell them and the athletes and students and prospective students about the status of the sport which they care about. If we allow this to happen, it would certainly send the wrong message that right and wrong does not apply if you are a college or a university.

Mr. Chairman, in 2 short years, between 1994 and 1996, nearly 200 colleges and universities canceled sports programs. That is thousands of kids who will never again have the opportunity to participate at the collegiate level, opportunities that many of us once enjoyed.

I wonder how many of the kids who played on these teams were warned that their teams were slated for elimination? I wonder if any of them would have chosen a different school if they had known in advance that the school was planning to drop their sport?

Many universities are doing the right thing, and I applaud them. But in some cases, the affected students are the last to know about the plans to drop their team.

Mr. Chairman, let me tell my colleagues about the experiences of Scott Gonyo and his teammates. In 1993, Drake University decided to eliminate one of its, not a major sport, so it was either wrestling or track or soccer or swimming. When they eliminated their teams in 1993, did the school take the time to notify the team that they were being dropped? No. Did the athletic director take the time to notify them of the cancellation of their sport? No. Scott Gonyo and his teammates found out when the members of the media called them for reaction.

I do not know about anyone else, but I think this sends a terrible message about how some colleges and universities are treating the very kids they are supposed to serve.

What the Roemer amendment seeks to strike from this bill is the right of students to be informed about decisions which affect their lives, and that is all. We all know that kids and parents consider a number of factors before deciding which school to attend. Among these factors is the ability to participate in sports, for some students.

I cannot believe that anyone would support a college's effort to keep pertinent information out of a student's hands. The fact that a school has decided to drop a sport is important information that kids and parents have a right to know before they decide which college they invest their time and their talents in.

I would certainly prefer that the NCAA deal with this matter by seeking the voluntary cooperation of their member institutions. In my office last week, I met with representatives of the American Council on Education, ACE, the NCAA, and the small colleges. We agreed in that meeting that I would support removal of this provision in conference if the NCAA would simply urge members to embrace voluntary notification requirements.

The next day, I received a letter from the president of the NCAA, the ACE, confirming that agreement, and was prepared to come to the floor and enter into a colloquy with the distinguished Member from California (Mr. MCKEON) to that effect. But sadly, on Tuesday I received a letter from the NCAA actually breaking the deal. They simply want this Congress to go away and let them do whatever they please.

Mr. Chairman, if the NCAA were a real estate agent trying to sell a house without disclosing leaky roofs or a used car salesman trying to sell flood-damaged cars without disclosure to the consumers, I dare say colleagues on both sides of the aisle would demand action.

A college education is one of the most important purchases any student and their parents will ever make. What is wrong with asking these universities and NCAA to simply tell the truth?

A "yes" vote on this amendment is a vote against kids knowing what their future will be and the families' right to know. I urge my colleagues to defeat the amendment.

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

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from the State of California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, as Members of Congress, we are constantly asked to make decisions on what is the appropriate role of the

Federal Government. Today I rise in support of the Roemer amendment because I think it is absolutely clear that the Federal Government has no role in mandating and micromanaging the affairs of the universities and the higher institutions of education in our country.

I find it ludicrous that we would even ask our universities, and by imposing on them a mandate, that they would have to notify people 4 years in advance of a decision that they might have to make in order to eliminate or reduce an athletic program.

This provision is absolutely insane in that it is, in fact, going to reduce the ability of our universities to allocate their resources, to ensure that they are going to be investing those funds in the most cost-effective manner.

We would be hamstringing the board of regents in California and the admission of our universities that have been appointed to make the decision to ensure that they can create the academic experience and the college experience which is in the best interest of the students that are going to be attending.

As I was listening to the last speaker, I thought it was somewhat interesting that he feels it so important that we provide students and families with the information about a potential reduction in an athletic program, but there is absolutely no attention being given to a potential decision that might result in the reduction of an academic program.

I also find it somewhat ironic that many of the people who are some of the strongest proponents of asking for this 4-year notification were some of the same people that were opposed to giving the working men and women of this country a 30-day notification of a potential plant closure.

When we have working men and women and their families whose livelihoods, whose ability to keep a roof over their heads, whose ability to provide food for their families, when we are opposed to giving them 30 days' notification, and yet we think it is appropriate to give 4 years' notification on a university decision to reduce an athletic program, that is just wrong and it is irresponsible.

Mr. HASTERT. Mr. Chairman, I yield as much time as she may consume to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Chairman, I rise to speak against this amendment. First of all, I think it is so amazing that the people that are sponsoring this amendment wish to talk about mandates on colleges and universities across this country. The fact is, almost all decisions being made about college sports today have everything to do with the Department of Education interfering and mandating on colleges about what sports requirements they are under. This is not something that will be initiated; this is something that is going on right now.

We all believe that sports are great for women and for men that are in college. They serve a wonderful purpose. They provide these young people, first of all, an opportunity for scholarships, provide many of them an opportunity at institutions of education that they would not have if they were not able to receive these athletic scholarships. It also gives them an opportunity to compete on a higher level.

Many of these students are very talented in athletics. Many will have opportunities to use these talents in other arenas. They go on and become our Olympic stars. They go on and compete internationally. They represent this country around the world. Many of them have careers if professional careers are available in their sports.

Those opportunities are growing for women, as they have been for men for many years. That is all great, and a great opportunity for some very talented young people in this country.

Athletics also teach us a lot of other things. It teaches kids about hard work. It teaches kids about sportsmanship. It teaches kids about learning to lose and to start over again, to pick themselves up when they are down. Those are lessons that help all of us for all of our lives. So when we look at athletics, I am thrilled to see colleges looking for the best ways to provide the most opportunities for the most students.

Because of the Department of Education's accelerated or new pressure that they are applying on many athletic programs, there are an increased number of programs that are being jeopardized today. Many times, because the colleges have little time to act, they are being forced to eliminate men's teams and to add women's teams in order to try to equalize the opportunities.

All of us applaud the new opportunities for women. It has made a wonderful difference in a couple of my daughter's lives.

It has not made such a wonderful difference in my son's life, though. This year he is a junior in college. He is a champion swimmer. At one point, he was the second fastest swimmer in the butterfly in the country. Next year, it looks as though his school may not have swimming, so he loses his opportunity to ever go on and an opportunity to ever be the top in the country, ever be in the Olympics.

So why does he not go to the another school? Because all of his credits are in one school. He loves that school. He has invested a lot of time, a lot of energy, a lot of effort in that team. The fact is that that school has no time to adjust because of the Department of Education.

I am so sorry that our colleagues that are sponsoring this bill are not screaming about that sort of intrusion in colleges today. If we had a little more time, we could probably grow better women's sports opportunities and not endanger men's sports. But since we have this intrusion that exists today, and because nobody on the other side has talked about that, I think it is better, very important to understand why some teams are being eliminated.

In the meantime, what my colleague is proposing is that students who are trapped at a school, who love that school dearly, they at least be informed as early as the school knows that it is about to drop a particular sport. That is the least we can do so that they have an opportunity to consider what this means in their lives, so that they have an opportunity to fulfill their talents and their dreams, even if changing schools is the only way to do it.

This is, by no means, criticism of my son's school. They have treated him more than fairly, informed the students on that team of the crushing news that they are going to drop swimming next year.

I think it is important that this body know that just 4 years ago, they built a $14 million swimming and athletic complex to accommodate this team that now they are being forced to drop. Is that a waste or what? What does the Department of Education think about that?

In the meantime, let us leave the language in the bill. Let us get this bill to the conference committee. Let us see if between the Senate and the House we can figure out a way to make things better for all women athletes and all men athletes.

Mr. ROEMER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Palo Alto, California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I would like to start out today obviously in strong support of the Roemer amendment, a proposal to restore the ability of colleges and universities to carefully design and budget their own athletic programs.

I would like to add this for the record, because some of my colleagues on the other side of this issue are talking about NCAA sports: In 1996–1997, this represents men's and women's sports. I do not know where all of this is coming from of what has been dropped. Look at what has been added, 360, this is what has been dropped. I think that this is a very provocative number and something that our colleagues should pay close attention to.

Without the Roemer amendment, H.R. 6 would force institutions to make irrevocable decisions about which programs will receive funding far in advance of current requirements. The Roemer amendment strikes a provision which represents, in unparalleled Federal intrusion, Federal micromanagement and Federal mandates.

The NCAA supports this amendment. Their statistics further reveal that the original provision is unnecessary. I am very, very proud to represent Stanford University whose outstanding academic and athletic accomplishments can be matched by few.

The university sponsors 17 varsity women's sports, and their list of championships is stunning. National volleyball champions 3 of the last 4 years, national tennis championships 10 times in the last 20 years. In 20 years, the varsity women's swimming, they have won eight national titles.

The Stanford women's basketball team has been in the final four six times in the 1990s and national champions in 1991 and 1992. Stanford's record offers compelling proof that women's success does not harm a college's athletic program.

□ 1715

Is the Congress going to require that universities and colleges submit to us in a report as to whether they are going to drop their Japanese overseas programming? This is ludicrous. This is not being applied to anything that is academic but only that which is athletic.

The Roemer amendment would ensure that Stanford University and the rest of our Nation's colleges and universities have the necessary flexibility to continue to develop such strong athletic and academic programs free of Federal intrusion, free of Federal micromanagement, and free of Federal mandates. I urge my colleagues on both sides of the aisle to vote for the Roemer amendment.

Mr. HASTERT. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to say, Mr. Chairman, that the previous speaker spoke about the rise of women's sports. And as the father of two daughters, and someone who enjoys watching my girls participate in soccer, basketball, or whatever, I am glad that there will be a lot more opportunities for them. But I also want to say, as I look at this bill, this is not a matter of what is convenient for Stanford University or for the University of Virginia or the University of Georgia or Berkeley or whatever. This is a matter of putting the kids before the system, putting the kids before the faceless institution.

Think about the private sector a minute. We have so many people in our body who talk about disclosure in all aspects of the private sector; worker safety, materials used on job sites, what we eat, what is in the water. Whatever it is. What is in the air. What is being discharged. All of this has to be disclosed, and yet this body, who so readily puts such disclosure mandates on the private sector, now has Members saying let us not put that on the public sector.

What is this horrible mandate that we are putting on the public sector? And let me clarify, it is not all public universities. There are private universities. But most of them get some sort of Federal funding in one place or another. Think about this, though. Here is a student who is 17, 18 years old; young boy or girl. They are going off to college. They have worked real hard to get in the school of their choice. Maybe they are going to play baseball, maybe wrestling, maybe lacrosse, maybe swimming, maybe volleyball. They have that opportunity and they are excited about it. And then they get there and find out that they are phasing out the volleyball program or the wrestling program. That was one reason that student chose university A over university B. And now we are saying that our kids are not important enough just to tell them that?

Somebody had said, well, we cannot give them a 4-year warning. If my colleagues will read the Hastert proposal, what he is saying is all they have to do is notify the students once they make the decision to phase out a certain athletic program.

This, as I said, maybe it is not pro-university, maybe it is not pro-institution, maybe it is not pro-system, but it does become pro-child, pro-student, pro-athlete and, therefore, I think it is pro-sports.

The gentlewoman from Kentucky (Mrs. NORTHUP) talked with great pride about what sports meant to her six children, and the positive impact that sports programs can have to all of our children is very, very important. So why not be fair to America's kids; that if they enroll in a college or a university that has a sports program, should they not be notified when the college or university has made the decision to phase out that program? That is the only thing that the gentleman from Illinois is trying to get in the bill.

I urge my colleagues to vote against the Roemer amendment and vote for the children of the United States of America.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from the State of Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time, and I do rise in support of his amendment.

I have a lot of sympathy with what the gentleman from Illinois (Mr. HASTERT) is trying to do, and I have a lot of sympathy for those who played sports through high school and college. I did a little bit. I was not very good, but it was a great thing to do.

I have listened to what others have said, but I do not know why we are getting involved with this and, hopefully, we can work it out some other way. I do not think this should be in our legislation, and I think the Roemer amendment should pass.

For example, what if a college changes its academic courses? Do they have to give 4 years' notice of that, if someone is majoring in something? What if a college like mine becomes coeducational in the middle of it all? Is that something we should have to give notice for? My college got rid of fraternities. Believe me, fraternities were big deals at Hamilton College when I went there, and that was a major change, but nobody had to give notice then.

A lot of things happen in colleges, and I do not think that we should be out there interfering with their right to govern themselves. As a matter of fact, I would think that would be a Republican principle that we would want to follow; that we should simply let them make their own decisions.

I have read the language of this, which is part of the Student Right to Know Act, and it states: "A statement of any reduction that may or is likely to occur during the ensuing 4 academic years and the number of athletes that will be permitted to participate in any collegiate sport or in the financial resources that the institution will make available to any such sport and the reasons for any such reduction." That is a tremendous burden and requirement to place on our colleges. I happen to think it goes too far. The gentleman from Illinois and I have talked about this.

I have heard from the University of Delaware president. Used to be president of the University of Kentucky. And David Roselle writes and says,

> It is demeaning for the Congress of the United States to be mucking about in the management of intercollegiate athletics.

I happen to totally agree with that particular statement.

Why are we getting involved in micromanaging decisions at the college and university level? Do we not have better things to do here in this Congress?

And then he went on to make the point,

> Schools simply do not know, and neither does the Congress, what forces will come into play in the next 4 years that would make program reductions on campus both necessary and appropriate.

Again, I could not agree more with that particular point. It absolutely hits the nail on the head. Four years is a long time.

I think for all these reasons, while the intent is good, this is not good to have in this legislation. We ought to take it out and we should pass the Roemer amendment.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume to remind my good friend from Delaware that the language says anytime within that 4-year period. So the interpretation is if they decide in 1 year, or 2

years, or 3 years, or 4 years, whenever that decision is, they just ought to come forward and let kids know.

It does not say they cannot do this. It does not restrict them in any way. It just says there should be notice given, not a restriction of the Federal Government. And this is really kind of a red herring to cross this path. We are just saying notice ought to be given.

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

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. CLEMENT), a former university president who will speak to this issue.

Mr. CLEMENT. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today in strong support of the Roemer-Riggs amendment to H.R. 6. The Roemer-Riggs amendment would eliminate the bill's language requiring higher education institutions to report 4 years in advance the planned elimination of college sports.

Schools in my district have expressed their concern that the bill's current language poses an overreaching Federal intrusion in the way they operate their sports programs. As a former college president, I understand the importance of long-range planning, but it is just that; planning. Who knows what new budget constraints might face a school from year to year? Forcing colleges and universities to formulate such far-reaching micromanaging of the athletic policies is simply shortsighted and surely not in the best interest of our colleges and universities.

The chairman of the Committee on Education and the Workforce, the gentleman from Pennsylvania (Mr. GOODLING), got a letter not long ago from the president of Belmont University, which happens to be in my Congressional District in Nashville, Tennessee. Dr. Troutt, who also had the opportunity to serve as chairman of the National Commission on the Cost of Higher Education, says this, and he says it so well:

> This type of congressional action is inconsistent with the commission's recommendations that colleges intensify their efforts to control costs and increase institutional productivity. Because the commission stressed the need for colleges and universities to consider questions of cost effectiveness and efficiency within academic programs, it would be inappropriate for Congress to ask schools to exempt sports programs from similar rigorous scrutiny. I recommend you eliminate this or any other related provision.

That is why we all need to join forces and I encourage a "yes" vote on the Roemer-Riggs amendment and firm support for our Nation's colleges and universities.

Mr. Chairman, I provide for the RECORD a copy of the letter I just referred to.

OFFICE OF THE PRESIDENT,
BELMONT UNIVERSITY,
Nashville, TN, April 24, 1998.

WILLIAM F. GOODLING,
Chairman, House Committee on Education and the Work Force, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GOODLING: As you know, I was privileged to serve as the Chair of The National Commission on the Cost of Higher Education. Although we completed our work and submitted our final report to Congress in January of this year, I continue to work hard to ensure that college presidents throughout the nation take the Commission's recommendations seriously. I am pleased to report that many institutions have committed to redoubling their efforts to keep college affordable for all Americans.

I am also following with interest Congress' reauthorization of the Higher Education Act. Both the House and Senate authorizing committees have reported fine bills that deserve support. However, I would like to bring to your attention several issues that are of particular interest to me as former Chair of the Cost Commission. I hope you will find these comments useful as you proceed in the process of putting final legislation together.

1. INFORMATION ON COLLEGE COSTS

One of the strong messages that the Cost Commission sought to communicate is the need for greater clarity about the basic financial structure of colleges and universities. University administrators need better data to guide their efforts to contain costs; the public needs better data to make informed choices about obtaining a college education; and policymakers at all levels need better data as they make basic decisions regarding student aid, and regulation and oversight of the nation's colleges and universities. I am pleased that both the House and Senate bills have added provisions to their reauthorization bills that recognize the importance of achieving greater financial transparency. Based on our experiences in attempting to gather and analyze data for the Commission, however, I would caution against expanding unduly the government's role in the information-clarification process. To the extent that the Senate bill assumes a more limited and focused approach, I think it is the stronger of the two measures. The process of developing a better understanding of university finance includes, but is not limited to, improved reporting to the federal government, beginning with consistent definitions of cost, price, and subsidy. The Commission, therefore, recommended measures to strengthen IPEDS reporting and improve analysis by the Department of Education of the relationship between tuition and institutional expenditures. But we also took pains to make clear that much of the clarification and communication that needs to take place should take place through existing non-governmental channels—between institutions and their constituent families and students directly, through a public awareness campaign sponsored by the higher education community, through national accounting standards bodies such as FASB (the Financial Accounting Standards Board) and GASB (the Government Accounting Standards Board), and through the reports and handbooks that are already widely distributed in the higher education "market."

Both the House and Senate bills adopt our recommendation that IPEDS reporting be strengthened. To the extent that the House bill goes beyond this and directs the Secretary to develop a uniform cost reporting methodology outside of IPEDS, I would question whether that is a productive step to take. If any such effort is undertaken, it should involve extensive, formal consultation with the higher education community. Likewise, I question seriously the wisdom of asking the General Accounting Office annually to recapitulate the comprehensive study that the Commission was asked to conduct on a one-time basis. As our report indicates, we were not able to obtain meaningful data in many of the categories listed as the focus of an annual GAO report in the House bill. Under the circumstances, I would urge Congress to focus on improving the data through an NCES study, as recommended in the Senate bill.

Whatever the process for developing improved reporting, I urge you to consider two substantive points in particular. Any redesign of reporting categories should include the replacement value of capital assets, as the level of an institution's general subsidy cannot be calculated without taking that into account. Equally important, Congress should not impose a requirement that the cost of educating graduates and undergraduates be counted separately. Any such disaggregation would be completely arbitrary, inaccurate, and destructive of the organic education process that occurs on campuses where undergraduates and graduates are taught together.

Mr. HASTERT. Mr. Chairman, I yield myself such time as I may consume to ask the gentleman from Tennessee a question. I have great respect for the gentleman from Tennessee and I would ask him if this was a decision that was made in a year, or 2 years, or maybe 4 years, up to 4 years, and the gentleman had students at the University of Tennessee, or some other university, would it not be proper to notify those students when that decision was made to drop the sport? It would not mean the gentleman would have to hold that sport.

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

Mr. HASTERT. I yield to the gentleman from Tennessee.

Mr. CLEMENT. I tell the gentleman that I was at a small college university and I had a tough time balancing that budget. If the gentleman were to put me in a stringent situation such as that, where I had to look 4 years out, and I could not adjust my budget, the gentleman would put me in a terrible predicament.

Mr. HASTERT. Reclaiming my time, Mr. Chairman, the bill does not say 4 years. Whenever the gentleman makes the decision, up to 4 years. So if the gentleman were to do it 6 months from now or 1 year from now, 2 years from now, or 3 years from now, all I am saying is when the gentleman were to make that decision, is it not fair to notify that student that the gentleman or school has made that decision?

Mr. CLEMENT. If the gentleman will continue to yield, I would say to him that I love sports, but I think we are sending our students for academic purposes more than we are sports. That is the paramount importance.

Mr. HASTERT. Mr. Chairman, I appreciate the gentleman's statement,

but the fact is a lot of kids make that life decision on where they go to school based on things like athletics and other extracurricular activities. Here we are looking at athletics, but that is a major decision on young men and young women when they decide to go to school. If they made that decision based on that premise, then they should be notified of that decision or if that premise is going to change.

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

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a valuable member of the Committee on Education and the Workforce.

Ms. WOOLSEY. Mr. Chairman, I rise in strong support of the Roemer amendment.

These new requirements are misguided at best. I ask the gentleman on the other side of the aisle if a college does not drop a particular course if not enough people have enrolled in it after people have already started their school year?

The reporting requirements added in H.R. 6 are nonsense. Hearings in the Committee on Education and the Workforce have clearly shown that men's minor college sports do not need this protection. Not only are reporting requirements not needed, they also will not work.

Dr. Ruben Arminana, the president of Sonoma State University in my district, tells me that these requirements will have just the opposite effect. President Arminana says that by forcing colleges to announce 4 years in advance when they plan to reduce or eliminate funds for a sport, we will restrict a school's flexibility in decision-making.

I quote President Arminana's response to this provision. He said:

> Sports teams will suffer irreparable damage, and institutions will be unable to retain the program should circumstances change at a later date.

These reporting requirements place unreasonable and inappropriate demands on institutions of higher education. It is an unwarranted Federal intrusion in college and university affairs and ignores efforts to curb college costs. Colleges and universities do not budget for 4-year cycles, they budget 1 year at a time. They need the flexibility to make decisions that are in the best interests of their students and campuses that year.

Who are we, here in this Congress, to insist that colleges justify their budget decisions to us?

□ 1730

Mr. Chairman, I urge my colleagues to vote for the Roemer amendment.

Mr. HASTERT. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore (Mr. EWING). The gentleman from Illinois (Mr. HASTERT) has 11½ minutes remaining. The gentleman from Indiana (Mr. ROEMER) has 13½ minutes remaining.

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

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to my very good friend, the gentleman from the State of New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank my friend and classmate, the gentleman from Indiana, for yielding. I rise in support of the Roemer amendment.

Tomorrow, my 5-year-old daughter Jacqueline is going to enroll for kindergarten, and when my wife and I look at the cost of paying for an education, we really have our fingers crossed that some day she will earn an athletic scholarship to play lacrosse or soccer or field hockey or some other sport. We are going to need it.

The day that her mother started college, there were far fewer opportunities for women to play intercollegiate sports. When her grandmother was growing up, very few women went to college at all. There has been a lot of progress in opportunities for women over the years, and I believe that we should do nothing to turn back the clock on that progress. It is very important that we reaffirm our support for title IX, as I believe this amendment does.

I also believe that no one on the other side of this question wants to downgrade women's sports, and I understand that. I believe that we have gotten in an unfortunate box where, somehow or another, we believe that we are choosing between men and women in intercollegiate sports opportunities, and we should not.

I happen to believe that the record does show, particularly in the case of some sports like men's wrestling, that there have been some unjustifiable decisions made that have hurt student athletes. And I, for one, am looking for a tool to try and remedy those injustices.

With all due respect to its author, who I know is very well-advised and well-intentioned, I do not believe this is the right tool because of the expanded time window that is in it. I do share his conviction, however, that there ought to be some guarantee that before an institution chooses to terminate a sport that it ought to say exactly how much money it is going to save, justify those numbers so that the dynamic of the campus-based, decision-making community can look at that argument and see whether it is true or false.

So I will support the Roemer amendment tonight, but I will offer my willingness to cooperate in trying to find a way to resolve this very serious problem.

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

It is interesting from time to time to take the floor. We try to reason out an issue and we try to decipher what is right and what is wrong, what is right and wrong for kids, what is right and wrong for our system of education, whether it be private or public, and what is the best course to take. And usually the common denominator when it comes down to it, especially in the area of education, is what is right for kids.

I appreciate the gentleman on the other side, because easily we try to get into a battle between men's sports and women's sports. That certainly is not my intent, and that is not the intent of this legislation. What we really want to do is to treat kids fairly.

Let me say that in my experience, and as most people know, I spent 16 years as a public school teacher and a coach, and before that participated in football and wrestling and other sports both in high school and college, part of probably the opportunity to participate in athletics gave me the opportunity to get out from behind stoves of a restaurant or behind the dishwasher because it gave me an opportunity to participate, it gave me a little help along the way.

I was in a private school; that was not a lot of glory, was not a lot of headlines. And contrary to my good friend, the gentleman from Michigan (Mr. BONIOR), the whip over on the other side, I was not a quarterback, I was just in the line. So I did not get any glory at all. But it changed my life and it put me in public education, certainly something I did not intend when I was in high school, but the opportunity to do that.

Now, today when I go back to a State tournament in Illinois and I look down on the floor of the tournament and I see coaches there that graduated from Southern Illinois University or graduated from Illinois State University or graduated from Western Illinois University. Those guys were never stars, they were never the quarterbacks, they were never the national champions, but they are guys or men at that time that pursued the sport because they loved the sport, and that sport changed their lives and they became teachers and coaches and people who have participated and have provided generations of leadership for young people who certainly need that leadership.

Also, I, as my colleagues know, have tried to take the lead in some areas on drug issues. One of the things, I met with the mayor of Chicago and the new superintendent of schools for the City of Chicago, and he says, "We cannot find enough people to be the role models for these kids."

One of the new innovations that they have done there and I think has been somewhat successful is to take students who are at risk, students that are ready to be bounced out of the public

school system and keep them after school from 3:00 in the afternoon until 6:00 in the afternoon. Instead of suspending those kids, they have decided to keep those kids on Saturday instead of turning them loose on the streets.

What they found out is that the incidence of success for those kids has increased, but they also have found out that the crime rate has gone down because the crime rate was after school. The highest incidence of teenage crime was the hours right after school and on Saturdays. So they have given those kids direction.

Do my colleagues know who they depend on? They depend on the coaches to come in, the people who have the ability to be the role models, the people who have the ability to connect with these kids. They are not just exclusively coaches. Some of them are science teachers and some are art teachers, and some of them are English teachers. But they have given those kids hope.

What we do and what has happened, and I have seen the charts up here; the story is, though, the people who have gained are women's sports, and that is great. The sports that have lost are men's sports. Two hundred universities across this country in 1996 and 1997 have dropped sports; almost all of those sports are men's sports. We are just saying, if they are going to do that, give those kids a chance to reclaim their lives, give those kids a chance to find another university or another program to get into if that is their wish.

Now, we are not saying we cannot do it. I understand certainly the constraints of universities and colleges. I know the budget problems. I know that we do not want extra interference from the Federal Government in these schools. But we are just saying, give these kids a chance. If they are going to drop the program, let them know. Give them a chance to change.

Last week we had the roll-out of the For a Drug-Free America Act. That was an interesting experience. But one of the most interesting speakers that we had was a young lady from northern Illinois who was the goalie on the women's hockey team that won the gold medal in Nagano. The young lady is a premed student at Dartmouth University. She took 2 years out of her training to take the challenge to try to make the Olympic team. She did that.

She had a great message for the kids of this Nation. The message is, "You can do anything you want with your life. You can do anything you want. If you put your mind to it and your will to it, you can do it." But do my colleagues know what? She also had a great message that "If you get messed up with drugs, it probably is going to negate that." We need to have people's messages out there for our kids.

Do my colleagues know where she got her experience? She was the only girl on the men's hockey team that won the State championship in Illinois, but she earned that spot. The next year, that hockey team was no longer a school sport.

I am saying, when we take those opportunities for kids to excel, to try and reach out and get their dreams and some may be to be an Olympic champion or to be a State champion or to be a coach, when we drop those programs, we take away generations of leadership, leadership that we need to help our kids, boys and girls, to help our future, and to set the tone of what this country should be about.

All I am saying in this amendment, in this notice, is that if we are going to take that opportunity away from those kids, tell them, tell them on a timely basis. If it is 4 years ahead of time that decision is made, tell them in 4 years. If it is 3 years, tell them in 3 years. If it is 2 years, tell them in 2 years. If it is 1 year, tell them in 1 year. Give them a chance to make their own decision and to follow their goal in life.

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

Mr. ROEMER. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. ROEMER) has 11½ minutes remaining. The gentleman from Illinois (Mr. HASTERT) has 4 minutes remaining.

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

I would just say that the gentleman from Illinois has given a very eloquent and passionate statement about mentoring and after-school programs and leadership programs for children, but not a Federal mandate or intrusion into our sports programs on the part of Washington to every university in the country.

Mr. Chairman, I yield 1¼ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I rise in support of the Roemer-Riggs amendment.

I think it would be an almost impossible challenge and task for universities and institutions of higher learning to be required to predict 4 years in advance changes that might be anticipated in their athletic program. We have enough problems here in Congress in trying to predict what is going to happen next year.

Under the provision in the bill that has been included in H.R. 6, schools could lose their eligibility to receive Pell grants and higher education loans if they fail to predict and justify their decisions. This provision is intrusive, as has been mentioned, and I think it goes way beyond the limits of the Federal role in the development of higher education policy.

In addition to the absurdity of having to prophesy future changes, I am also concerned that this provision would tend to weaken title IX. And I am concerned that this reporting requirement will lead colleges and universities to blame reductions in men's nonrevenue sports, such as wrestling, on compliance with title IX.

I wanted to say, I also introduced that goalie and I introduced the captain of that winning hockey team in my district, and we were very proud of what they have done. And the gentleman from Illinois (Mr. HASTERT) is quite correct, but I just want to emphasize, the ultimate goal of title IX is to provide equal opportunities for boys as well as girls, men as well as women, and this is what we should do.

Mr. HASTERT. Mr. Chairman, I yield myself 1 minute.

I would like to remind the gentlewoman from Maryland (Mrs. MORELLA), a good friend of mine, I think, that there is no penalty in this bill. It does not take away or threaten universities with their Pell grants or anything.

There is no penalty in the bill. It just says, within a period of 4 years, up to 4 years, that if they decide in 4 years or 3 years or 2 years or 1 year or 6 months from now that they are going to do away with a sport, they ought to tell the kids they are going to do that so they have some time to plan.

So I understand that this is the understanding that my colleague has. It is wrong. We do not take away. There are no penalties in this bill. That is how benign this is. We are just saying, give kids a chance.

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

Mr. ROEMER. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. DAVIS), the very talented freshman.

□ 1745

Mr. DAVIS of Florida. Mr. Chairman, I rise in support of the Riggs-Roemer amendment and against the mandate we are debating here this afternoon. This is a well-intended provision in the bill. It has, as its sponsor has mentioned, the goal of encouraging students to participate in intercollegiate athletics, team sports that teach teamwork, individual sports that teach self-esteem and confidence. But the provision does not have the intended effect and indeed it will have the opposite effect; that is, it will risk hurting students.

As has been mentioned, if enrollment were to drop at an institution, if student interest in participating in a particular sport were to decline and the budget dropped for that particular sport, this bill could have the effect of eliminating Federal funding that is needed to run that university or college and eliminating sorely needed financial aid.

Let us focus on what the real issue here is. The real issue is that we should adequately fund our universities and

colleges, not just intercollegiate athletics for women but for men as well. They should not have to compete against each other.

Secondly and most importantly, as the sponsor of this provision alluded to, we need to strongly fund financial aid, because the greatest threat to participation in intercollegiate athletics is the time of our students who are increasingly being forced to work, as the sponsor was, and attend school and are robbed of the opportunity for extracurricular activities outside the classroom. By funding financial aid to meet these rising tuition increases around our country, by freeing our students up to have time to participate, this is what we should be focused on. This is why I would urge the adoption of the amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, the reporting provisions in the Higher Education Act represent a highly inappropriate Federal intrusion into the affairs of our Nation's colleges and universities. I rise in support of the Roemer amendment to strike those provisions. Congress should not be in the business of interfering in the budgeting decisions of our Nation's colleges.

The Higher Education Act contains important provisions to help our students pay for the rapidly rising costs of college. Yet the reporting provisions in the bill would make it even more difficult for schools to make the tough decisions that will help them to keep tuition costs down. That is why the NCAA supports the Roemer amendment. These reporting provisions are an attempt to force colleges and universities to blame any reductions in men's sports on increases of women's sports. This is a backdoor attempt to weaken Title IX. This is not about men's teams versus women's teams. We are all on the same team here. We all win when our young women have the opportunity to challenge themselves, to strive to succeed to improve their confidence.

I urge my colleagues to allow our colleges and universities the autonomy to make their own decisions. Vote for the Roemer amendment.

Mr. ROEMER. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. ETHERIDGE), a freshman Member working hard on education problems.

Mr. ETHERIDGE. Mr. Chairman, I rise in strong support of the Roemer-Riggs amendment to correct a serious flaw in this bill. This provision is wrong. I urge my colleagues to support this amendment to remove it from the bill.

Last week I met in my office with the president of the North Carolina Association of Independent Colleges and Universities. She explained to me her concerns about the harmful effect that this provision of the bill would have on the institutions of higher education in our State. Without passage of the Roemer-Riggs amendment, this bill would usurp the administrative flexibility of colleges and universities that they absolutely need to run their universities in the most effective manner, a mandate that has been given to them by this Congress through a commission that they set up.

The Federal Government should not be in the business of micromanaging our universities of higher education. But we should not as a process of trying to do it pit our academic institutions against the athletics and their struggle for resources. This provision would handicap colleges and subject them to a burdensome, restrictive and contentious process and send the wrong message to our Nation's schools.

This provision is unnecessary, and the Roemer-Riggs amendment is supported by the NCAA and other major higher education organizations.

My Congressional District contains several small colleges and universities. These institutions would be particularly hard hit by this bill. We must preserve the flexibility of these schools to continue to provide the excellent educational opportunities they are providing today.

Mr. Chairman, as the first member of my family to graduate from college, I know firsthand that higher education holds the key to the American Dream. This provision of H.R. 6 would have very serious, negative consequences for our nation's colleges and universities. As the former Superintendent of my state's schools, I urge my colleagues to join me in voting for the Roemer-Riggs amendment.

Mr. HASTERT. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the full committee.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding time. I just wanted to indicate that there is certainly a happy side to this debate this evening because as the new majority we certainly are making converts over there. I have heard so many times in this discussion from that side of the aisle, "We should not be mandating, we should not micromanage." That is music to my ears. We are really making progress here as a new majority. I thank you for joining us.

Mr. ROEMER. Mr. Chairman, we are delighted to get that endorsement from the chairman of the committee.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from North Carolina (Mr. PRICE), again from a university.

Mr. PRICE of North Carolina. Mr. Chairman, as a Member whose career has been in higher education, I would like to offer some observations in support of the Roemer amendment, which would strike the bill's provision requiring institutions to report annually and justify their reasons for any reduction in funding or in participation rates of any sports teams that might occur over the next 4 years.

I understand the intent of the gentleman from Illinois (Mr. HASTERT). We do need to use common sense in the implementation of Title IX, and the interests of all students in all sports need to be given consideration. But I think the Hastert provision is unwise policy for a couple of reasons.

The provision does represent a micromanagement of the budgeting practices of colleges and universities. Colleges and universities must be able to manage their budgets, set their priorities, and make their plans with the maximum amount of flexibility and freedom. These are hard times at many colleges and universities. Managing these institutions is a difficult task. An unreasonable Federal burden such as this one strikes me as simply unwise. Simply put, universities do not and should not be required to initiate 4-year budgeting plans. They need far more flexibility than that would permit, which leads me to my second point.

This provision might actually lead colleges to make hard and fast long-term decisions that would have the opposite effect of the intent of the bill. A requirement to announce decisions 4 years in advance could actually lead a college to signal the termination of a sports program, undermining its ability to recruit athletes, when in fact the program might be salvageable if circumstances change. It is hard to see any benefit in that for student athletes or for anybody else.

I urge my colleagues to vote in favor of the Roemer amendment in order to preserve the maximum amount of independence and flexibility in the operation of our Nation's colleges and universities.

Mr. ROEMER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BONIOR), our minority whip.

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

Mr. Chairman, I rise with great reluctance to oppose the language in the bill of the gentleman from Illinois (Mr. HASTERT), who has really spent a good deal of his life in behalf of young people. I have listened carefully to his remarks and the sincerity and the passion in which he delivered them earlier.

When I look at the bill, two things that stand out to me is what the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the committee referred to, and that is our concern about the micromanaging on our campuses, but also the issue that I want to address on the floor here is the question of Title IX and the great work that we have done over the years to get

where we are, and that has been championed by the gentlewoman from Hawaii (Mrs. MINK).

Title IX is the landmark civil rights legislation which has done so much to advance equality for women. Thanks to 25 years of it, we are experiencing a tremendous boom in women's sports. When I was at the University of Iowa in 1963, on an athletic scholarship, I might add, to my friend from Illinois, I did not receive much glory either as I spent too much time on the bench, there was not a woman in the university who was on an athletic scholarship. Only the men had athletic scholarships. Before Title IX, only one in 27 girls competed in high school sports. Today it is one in three. Back then, only 300,000 young women took part in interscholastic athletics nationwide. Today it is 2.25 million.

This past winter, as has been said, we added women's hockey to the growing list of U.S. women's teams that are Olympic gold medal winners. We see young women turn out for NBA basketball games and they have got heroes like Rebecca Lobo and Lisa Leslie and soccer heroes like Mia Hamm. We should be proud of these new opportunities for our daughters.

This provision that is in the bill would, I think, take a step backwards by pitting men's programs against women's programs. It is important to understand that we have had no court order that has ever forced a school to reach proportionality to comply with Title IX. Mr. Chairman, I urge my colleagues not to pit small men's sports programs against struggling women's programs. I urge them to vote for the Roemer-Riggs-Mink amendment.

Mr. ROEMER. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Hawaii (Mrs. MINK), the champion of equality and fairness.

Mrs. MINK of Hawaii. I thank the gentleman for yielding me this time.

Mr. Chairman, we have heard some very eloquent statements this afternoon arguing about the inability of institutions of higher learning to respond to this mandate to forecast 4 years in advance where they are going to eliminate or reduce athletic programs or cut funding. More particularly, if you look at the language of the provision in the bill, it says, "and to give reasons therefor." So while I fully subscribe to the arguments about university autonomy and what this provision will do to the universities, expecting them to be able to forecast 4 years in advance, I want to address those last four words of the amendment, "and to give reasons therefor."

Arguments have been made on the floor this afternoon that one of the reasons, perhaps, that men's nonrevenue sports have had to be eliminated in a number of instances is because women's sports have been gaining. If you look at the statistics and you study the record, such accusations are absolutely, totally false. Twenty-five years ago when I had the privilege of serving in the Congress and advocating for the passage of Title IX, women were totally excluded. Now for the first time, they are coming up and participating in major sports, gaining the support of wide audiences, becoming in some cases even a revenue sport. It seems to me it is wholly unfair to now try to cause the universities to single out Title IX as a reason for having to cut back on nonrevenue sports in the men's area. I believe sincerely that this is what it is all about.

I certainly agree with the gentleman from Illinois' argument that if we allow young people to participate in sports, it is going to change their lives entirely. That is exactly what has happened to women. It has changed their lives entirely. Title IX after 25 years has finally opened up opportunity in higher education, and one of the opportunities is in the sports area. It has given them the opportunity to find out what it is to be a competitor.

Women have been winning, have been coming home with the gold medals. I never had that opportunity. I could not even get into the profession that I wanted to when I was going to college. I yearned for the opportunity to have that chance, to seek my chosen career opportunities.

Title IX has opened up the way for women into law school, medical schools and all the professions. They have done well in the sports. Let us not add this language and compound the pressures upon Title IX and cause it to become the scapegoat for further accusations and further litigation.

Mr. Chairman, I urge the support of the Roemer amendment.

Mr. Chairman, I rise today in strong support of the Roemer amendment to strike the onerous reporting requirement included in this bill which will force schools to report on potential reductions in athletic programs.

This provision was included in the Committee bill at the 11th hour. Most Committee Members had no knowledge of the provision and there was no appropriate debate on the consequences or the practicality of what we are requiring schools to do in this provision.

There are many reasons to oppose the reporting requirement, many of which have been outlined by my colleagues—it is extraordinarily intrusive in the decision making process of colleges and universities; it is impractical—it will be virtually impossible for colleges to know if they are going to cut or reduce certain athletic programs four years in advance and it will force colleges to make decisions prematurely about their athletic programs. Furthermore, this reporting requirement could actually prompt colleges to close the very programs the proponents of this provision are seeking to save.

I oppose this provision for all these reasons, but most of all, I stand today with my colleague TIM ROEMER urging the House to strike this reporting requirement because of the potential for severe adverse impact on the enforcement of Title IX.

The reporting requirement in the bill was included by opponents to Title IX who want to force colleges to blame reductions in smaller, non-revenue men's sports on Title IX. They are hoping that colleges will say in their reports that compliance with Title IX is the reason they have to reduce men's sports, which is simply not true!

Title IX of the Education Act Amendments of 1972 prohibits all schools receiving federal funds from discriminating against women, including women's athletic programs.

The success of Title IX in increasing athletic opportunities for girls and women is indisputable. We have all seen the success of Title IX through the increased strength and popularity of women's collegiate sports, the record number of U.S. women athletes winning Olympic medals, and the establishment of two professional women's basketball leagues.

Thanks to Title IX, 110,000 college women and 2.2 million high school girls now compete in intercollegiate and interscholastic sports.

Women who participate in sports now reap the benefits that men have enjoyed for decades—new economic opportunities, building team work and leadership skills that translate into marketable jobs skills. Girls and women who participate in sports are also healthier and involvement in team sports also reduces the potential for involvement in juvenile crime and teen pregnancy.

Blaming women's sports for reductions in non-revenue men's sports is pitting the have-nots against the have-nots. While women's athletic programs have been increasing, female athletes still get the short end of the stick. Women still have only 37% of the opportunities to play intercollegiate sports, 38% of athletic scholarships, 23% of athletic operating budgets and 27% of the dollars spent to recruit new athletes.

While women's athletics has been inceasing, so have men's athletic budgets—at an even greater pace. Since 1972 (passage of Title IX) for every new dollar spent on women's intercollegiate sports, two new dollars were spent on men's intercollegiate sports.

From 1992–1997, men's athletic operating budgets have increased by 139%. The increase in women's budgets was much less at 89%.

The real problem is that the lion's share of total athletic resources goes to male athletes, but these resources are inequitably distributed among men's sports. Football and men's Basketball consume 73% of the total men's athletic operating budget at Division I–A institutions, leaving other men's sports to compete for the remaining funds.

Of the $1.37 million average increase in expenditures for men's Division I–A sports programs during the past five years, 63% of this increase went to football.

Minor men's sports that are threatened should turn their attention to the other major men's sports, and not take away from women's sports which only have 37% of the funds.

Title IX should not be used as a scapegoat for decisions made by institutions because of fiscal difficulties, or their decisions to inequitably distribute funds among men's sports.

We have come too far, we cannot turn our back on women athletes. Support Title IX and vote for the Roemer Amendment.

Mr. ROEMER. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore (Mr. EWING). The gentleman from Indiana (Mr. ROEMER) has 30 seconds and the gentleman from Illinois (Mr. HASTERT) has 2½ minutes.

Mr. ROEMER. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. ROEMER) has the right to close.

PARLIAMENTARY INQUIRY

Mr. HASTERT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. HASTERT. Mr. Chairman, the committee position holds the right to close. The gentleman from Indiana opened debate.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. HASTERT) is not on the committee. The gentleman from Indiana (Mr. ROEMER) has the right to close.

Mr. HASTERT. Mr. Chairman, I yield myself the balance of my time.

Certainly I want to thank the gentleman from California (Mr. MCKEON), who has worked with me to try to structure this language that made sense. I like to fish. I wish I had my pole here today because we have a lot of red herrings that have been floating around this place.

Let me be very, very honest and straight. The gentlewoman from Hawaii talked about title IX. This is not about title IX. Some people say it takes 4 years' notice. It is not 4 years' notice. It is notice when a school decides up to 4 years to give notice to kids who are not going to have the opportunity to participate.

□ 1800

But let me talk a little bit about what has arisen here as far as men versus women, certainly not the intent of this gentleman to talk about that. As my colleagues may know, my wife started teaching about the same time I did. She is a women's athletic coach. At that time the only opportunity that women had was GA, Girl's Athletics; it was an intramural thing. Today women have all types of opportunities; as many in girl sports in this high school as there are in boy sports, and that is great because it has changed the way.

All we are saying in this amendment is let us be decent, let us be honest, and let us tell our kids when their opportunities are gone that they have the chance to go someplace else if that is the case. That is what we are asking about.

But let me just say one more thing. As my colleagues may know, I had worked with the universities and small colleges, independent colleges and the NCAA. We had an agreement. An agreement was when this bill goes to conference let us work to make sure that this is a voluntary system.

Now the Congress is going to work their will today, one way or another, but those who so vociferously stood up and said let us not do mandates, let us then talk to the NCAA and make sure that this does, win, lose, or draw, become something that is voluntarily encouraged by the NCAA to its members. That is the bottom line. Let us let kids have the understanding and the knowledge when their sport is terminated that they have the ability to make a choice. Let their parents have the ability to make their choice.

Now, unfortunately, a lot of these kids are going to be vested in these schools, they are going to have hours. Maybe there will be sophomores or juniors and they cannot afford to change. What we are asking them, if they can, if they want to, if they are following their life's dream and this is part of what they want to accomplish with a college education, they need to have the opportunity of the knowledge, the same knowledge that the school has. It is not going to change their ability or their budgeting or anything else. It is common sense.

Mr. Chairman, let us vote on the side of common sense in this Congress for a change.

Mr. ROEMER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in conclusion this side, in efforts to strike this language in the bill, we are for the students' right to know. We just think that the universities should do it in a voluntary fashion, not from a mandate from the Federal Government in Washington, D.C.

If we were to bring a small business bill to the floor and have a provision in that bill saying that every small business in the country has to let us in the Federal Government know 4 years in advance if they are going to lay anybody off, that would be voted down.

Vote down this provision. Do not put a half nelson of regulations on every university in the country. Vote for the Roemer-Riggs amendment.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong support of a bi-partisan amendment offered by my colleagues, Congressmen TIM ROEMER and FRANK RIGGS. This amendment would eliminate a provision in H.R. 6, the Higher Education Act of 1998, that would require colleges to report four years in advance the possible elimination of athletics programs. This onerous provision would, in effect, gut the purpose of equality in athletics for men and women. It is my hope that the wisdom of Congress prevails in adopting this amendment.

As the team leader for the Congressional Caucus for Women's Issues—Title IX task force, I am often asked whether the Women's Caucus has a position on the elimination of sports opportunities for men as a method of complying with Title IX of the Education Amendments of 1972. Over the past five years, no less than 55 institutions nationwide have eliminated or downgraded to club status men's varsity intercollegiate sports or placed squad size limits on men's teams. Most schools cite, as the reason for their decision, the need to reduce expenditures in order to provide opportunities for women.

The Women's Caucus is not in favor of reducing opportunities for men as the preferred method of achieving Title IX compliance. Title IX is one section of the Education Amendments of 1972. Though it is commonly associated with college athletic programs, it is, in fact, a wide-ranging sex discrimination law that also applies to high schools and elementary schools. It states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the participation in an educational activity."

The reporting requirement in H.R. 6 was included by opponents to Title IX who want to force colleges to blame reductions in smaller, non-revenue men's sports on Title IX. They are hoping that colleges will say in their reports that compliance with Title IX is the reason they have to reduce men's sports, which is not true. Since the passage of Title IX, in 1972, for every one new dollar spent on women's intercollegiate sports, two new dollars were spent on men's intercollegiate sports. From 1992–1997, men's athletic operating budgets have increased by 139%. The increase in expenditures for women's sports during this time period, 89% pales in comparison. Football and men's basketball consume 73% of the total men's athletic operating budget at Division 1–A institutions, leaving other men's sports to compete for remaining funds. Of the $1.37 million average increase in expenditures for men's Division 1–A sports programs during the past five years, sixty-three percent of this increase went to football.

Blaming women's sports for reductions in non-revenue sports is pitting the have-nots against the have-nots. The lion's share or resources goes to male athletes, which are inequitably distributed among men's sports. Title IX should not be used as a scapegoat for decisions made by institutions because of fiscal difficulties, or because of decisions to inequitably distribute funds among men's sports.

Instead of developing an acrimonious environment between men's non-revenue sports and women's sports, we as legislators should be looking for solutions that will allow opportunities for all students to participate in activities. We need to explore the options of moving college athletic programs to a lower level of competitive division and using tuition waiver savings to athletics budgets to fund gender equity.

Equality has always benefited all Americans. If we intended to compete on a global level academically and athletically, we need a strong Title IX. I urge my colleagues to support this bi-partisan amendment to H.R. 6, the Higher Education Act.

Mrs. MALONEY of New York. Mr. Chairman, I rise in support of this amendment to H.R. 6.

H.R. 6 contains a provision which requires colleges to report on any potential reduction in athletic programs four years in advance and the reasons for that proposed reduction.

This provision is just another attempt to get colleges and universities to blame Title IX for reductions in smaller, non-revenue men's sports.

Title IX has been very successful in increasing the visibility and strength of women's collegiate sports. Its success can be seen in the two newly formed professional women's basketball leagues.

Title IX has been very important program, and it should not become a scapegoat for fiscal difficulties affecting the institution.

Title IX is not the only problem with this bill.

Congress should not restrict a college or universities ability to decide on its programs and budget.

Colleges and universities do not set their budgets four years in advance, yet this provision would force them to make decisions while just guessing at what the future may hold.

In a time when the cost of college is rising much faster than the cost of living, we must find ways to help colleges decrease costs; not create obstacles to suspending programs that the college or university can no longer afford.

This provision intrudes into the decision making policies of universities and colleges, and it would force colleges to make decisions prematurely about their athletic programs.

I urge my colleagues to join me in voting yes to this amendment to delete this provision from the bill.

Mr. BENTSEN. Mr. Chairman, I rise in support of this amendment.

This amendment strikes a provision of this bill that would have the federal government oversee and mandate the decisions of our nation's institutions of higher learning. I support this amendment because I believe it is inappropriate for Congress to interfere in a college or university's design of its own athletic programs or preparation of its own budget.

The provision in question would require institutions to file annual reports with the federal government that specify and justify any planned reductions in funding or participation rates of any athletic programs that may occur over the following four years. This is a costly, unnecessary and unfunded mandate that would undermine Congress' previous efforts to ensure the affordability of higher education.

The National Commission on the Cost of Higher Education, which Congress created, allowed institutions to make their own decisions about the best means for slowing the growth of college costs. This bill, however, would take away this authority and require postsecondary institutions to justify their budgets and long-range planning decisions. Most, if all, colleges and universities do not budget in four year cycles. This bill would require these institutions to revise budgetary practices and foresee the rise or decline in athletic programs several years in advance. This action will not only have an immediate, negative impact on the identified program, but it would severely restrict an institution's ability to recruit student athletes and take steps to save troubled programs.

There is simply no need for this provision. In fact, NCAA data shows no evidence of a nationwide trend of eliminating college athletic programs. In the 1995–96 academic year, only two sports experienced a reduction in their team totals, with a net loss of only six teams. That is only six teams out of 15,141 men's and women's sports teams, with 322,763 student-athletes, in NCAA member-sponsored institutions. In fact in 1995–96, 1,166 new sports teams were added.

I am also concerned that this provision would force institutions to reduce participation in smaller, non-revenue Title IX sports programs, which are designed to expand opportunity for women in college athletic programs. The bill contains burdensome reporting requirements that would pit sports programs for men against those for women. If institutions are forced to forecast profitability when determining the future of athletic programs, I am concerned that less established, revenue-neutral womens programs will be easy targets for termination. The end result will be diminished level of opportunity for women athletes and diminished participation by women in intercollegiate athletics.

I urge all of my colleagues to support the Riggs-Roemer amendment.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise today to urge my colleagues to support the Riggs-Roemer Amendment to H.R. 6, the Higher Education Act Amendments of 1998. Currently, H.R. 6 contains language that would require universities to give at least four years of advance notice if they plan to discontinue any sports programs. The Riggs-Roemer Amendment would remove this language from H.R. 6, and prevent the federal government from micro-managing college sports in this dangerous manner.

Once a college announces that one of their sports teams is being disbanded, immediately, that team becomes a lame duck. The program permanently loses its fan base, any potential recruits and also the support of its financial boosters. The potential thus becomes a reality.

It would be a shame if a college were forced by law to announce the discontinuation of a sport four years early, only to find enough money to keep the program afloat a year later. By then, that program will have suffered irreparable and unnecessary damage to its reputation and viability.

The government should not force colleges to announce four years in advance that they plan to discontinue a sports program. That rule would limit a college's options when it comes to possibly saving a struggling sport. I urge my colleagues to support the Riggs-Roemer Amendment to H.R. 6, so we can save college athletics from government over-regulation.

Mr. MORAN of Virginia. Mr. Chairman, I rise in strong support of the Riggs-Roemer Amendment.

I agree with my colleagues about the importance of ensuring autonomy for university administrators for their own athletic programs. I am astounded at the thought of the compliance issues associated with the provision in the bill this amendment proposes to strike. I am also concerned that this is a thinly veiled attempt to undermine the gains that we have made through the Title IX program.

The provision in H.R. 6 that the Riggs-Roemer amendment would eliminate would force recipients of Higher Education Act funds to justify cuts in college athletic programs.

Forcing an institution to maintain a failed program for four years after they report the cut is ludicrous. Imagine if this requirement were imposed on Congress. We would not be able to cut a program even if an emergency demanded it. We would never accept such a restriction and should not impose one on university administrators.

This provision is an attempt to allow colleges and universities to use Title IX as a scapegoat for cuts to other athletic programs.

No one understands better the difficult decisions that balancing a budget brings than we do in Congress. Title IX, which creates equal access to important programs for young men and women, should not suffer because of painful budgetary decisions. Last year Title IX celebrated its 25th anniversary. Since that time, women's participation in school athletic programs has increased dramatically. This increase has benefited young women in many aspects of life. Young women who play sports are more likely to graduate from high school, and less likely to use drugs or have an unintended pregnancy. They reap multiple health benefits from athletic participation, including a 40%–60% decrease in their risk of breast cancer. In addition, athletic participation helps improve self-esteem and discipline.

I urge my colleagues to support Title IX and preserve autonomy in decisions at institutions of higher education. Please support the Riggs-Roemer amendment.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentleman from Indiana (Mr. ROEMER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 411, further proceedings on the amendment offered by the gentleman from Indiana (Mr. ROEMER) will be postponed.

Are there further amendments?

AMENDMENT NO. 82 OFFERED BY MS. MILLENDER-MCDONALD

Ms. MILLENDER-McDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 82 offered by Ms. MILLENDER-McDONALD:

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

TITLE XI—TEACHER EXCELLENCE IN AMERICA CHALLENGE

SEC. 1101. SHORT TITLE.

This title may be cited as the ''Teacher Excellence in America Challenge Act of 1998'.

SEC. 1102. PURPOSE.

The purpose of this title is to improve the preparation and professional development of teachers and the academic achievement of students by encouraging partnerships among institutions of higher education, elementary schools or secondary schools, local educational agencies, State educational agencies, teacher organizations, and nonprofit organizations.

SEC. 1103. GOALS.

The goals of this title are as follows:

(1) To support and improve the education of students and the achievement of higher academic standards by students, through the enhanced professional development of teachers.

(2) To ensure a strong and steady supply of new teachers who are qualified, well-trained,

and knowledgeable and experienced in effective means of instruction, and who represent the diversity of the American people, in order to meet the challenges of working with students by strengthening preservice education and induction of individuals into the teaching profession.

(3) To provide for the continuing development and professional growth of veteran teachers.

(4) To provide a research-based context for reinventing schools, teacher preparation programs, and professional development programs, for the purpose of building and sustaining best educational practices and raising student academic achievement.

SEC. 1104. DEFINITIONS.

In this title:

(1) ELEMENTARY SCHOOL.—The term "elementary school" means a public elementary school.

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means an institution of higher education that—

(A) has a school, college, or department of education that is accredited by an agency recognized by the Secretary for that purpose; or

(B) the Secretary determines has a school, college, or department of education of a quality equal to or exceeding the quality of schools, colleges, or departments so accredited.

(3) POVERTY LINE.—The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(4) PROFESSIONAL DEVELOPMENT PARTNERSHIP.—The term "professional development partnership" means a partnership among 1 or more institutions of higher education, 1 or more elementary schools or secondary schools, and 1 or more local educational agency based on a mutual commitment to improve teaching and learning. The partnership may include a State educational agency, a teacher organization, or a nonprofit organization whose primary purpose is education research and development.

(5) PROFESSIONAL DEVELOPMENT SCHOOL.—The term "professional development school" means an elementary school or secondary school that collaborates with an institution of higher education for the purpose of—

(A) providing high quality instruction to students and educating students to higher academic standards;

(B) providing high quality student teaching and internship experiences at the school for prospective and beginning teachers; and

(C) supporting and enabling the professional development of veteran teachers at the school, and of faculty at the institution of higher education.

(6) SECONDARY SCHOOL.—The term "secondary school" means a public secondary school.

(7) TEACHER.—The term "teacher" means an elementary school or secondary school teacher.

SEC. 1105. PROGRAM AUTHORIZED.

(a) IN GENERAL.—From the amount appropriated under section 1111 and not reserved under section 1109 for a fiscal year, the Secretary may award grants, on a competitive basis, to professional development partnerships to enable the partnerships to pay the Federal share of the cost of providing teacher preparation, induction, classroom experience, and professional development opportunities to prospective, beginning, and veteran teachers while improving the education of students in the classroom.

(b) DURATION; PLANNING.—The Secretary shall award grants under this title for a period of 5 years, the first year of which may be used for planning to conduct the activities described in section 1106.

(c) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall make annual payments pursuant to a grant awarded under this title.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a)(1) shall be 80 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (a)(1) may be in cash or in-kind, fairly evaluated.

(d) CONTINUING ELIGIBILITY.—

(1) 2ND AND 3D YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the first fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this title, has made reasonable progress toward meeting the criteria described in paragraph (3).

(2) 4TH AND 5TH YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the third fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this title, has met the criteria described in paragraph (3).

(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are as follows:

(A) Increased student achievement as determined by increased graduation rates, decreased dropout rates, or higher scores on local, State, or national assessments for a year compared to student achievement as determined by the rates or scores, as the case may be, for the year prior to the year for which a grant under this title is received.

(B) Improved teacher preparation and development programs, and student educational programs.

(C) Increased opportunities for enhanced and ongoing professional development of teachers.

(D) An increased number of well-prepared individuals graduating from a school, college, or department of education within an institution of higher education and entering the teaching profession.

(E) Increased recruitment to, and graduation from, a school, college, or department of education within an institution of higher education with respect to minority individuals.

(F) Increased placement of qualified and well-prepared teachers in elementary schools or secondary schools, and increased assignment of such teachers to teach the subject matter in which the teachers received a degree or specialized training.

(G) Increased dissemination of teaching strategies and best practices by teachers associated with the professional development school and faculty at the institution of higher education.

(e) PRIORITY.—In awarding grants under this title, the Secretary shall give priority to professional development partnerships serving elementary schools, secondary schools, or local educational agencies, that serve high percentages of children from families below the poverty line.

SEC. 1106. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Each professional development partnership receiving a grant under this title shall use the grant funds for—

(1) creating, restructuring, or supporting professional development schools;

(2) enhancing and restructuring the teacher preparation program at the school, college, or department of education within the institution of higher education, including—

(A) coordinating with, and obtaining the participation of, schools, colleges, or departments of arts and science;

(B) preparing teachers to work with diverse student populations; and

(C) preparing teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

(3) incorporating clinical learning in the coursework for prospective teachers, and in the induction activities for beginning teachers;

(4) mentoring of prospective and beginning teachers by veteran teachers in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement;

(5) providing high quality professional development to veteran teachers, including the rotation, for varying periods of time, of veteran teachers—

(A) who are associated with the partnership to elementary schools or secondary schools not associated with the partnership in order to enable such veteran teachers to act as a resource for all teachers in the local educational agency or State; and

(B) who are not associated with the partnership to elementary schools or secondary schools associated with the partnership in order to enable such veteran teachers to observe how teaching and professional development occurs in professional development schools;

(6) preparation time for teachers in the professional development school and faculty of the institution of higher education to jointly design and implement the teacher preparation curriculum, classroom experiences, and ongoing professional development opportunities;

(7) preparing teachers to use technology to teach students to high academic standards;

(8) developing and instituting ongoing performance-based review procedures to assist and support teachers' learning;

(9) activities designed to involve parents in the partnership;

(10) research to improve teaching and learning by teachers in the professional development school and faculty at the institution of higher education; and

(11) activities designed to disseminate information, regarding the teaching strategies and best practices implemented by the professional development school, to—

(A) teachers in elementary schools or secondary schools, which are served by the local educational agency or located in the State, that are not associated with the professional development partnership; and

(B) institutions of higher education in the State.

(b) CONSTRUCTION PROHIBITED.—No grant funds provided under this title may be used for the construction, renovation, or repair of any school or facility.

SEC. 1107. APPLICATIONS.

Each professional development partnership desiring a grant under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) describe the composition of the partnership;

(2) describe how the partnership will include the participation of the schools, colleges, or departments of arts and sciences within the institution of higher education to ensure the integration of pedagogy and content in teacher preparation;

(3) identify how the goals described in section 1103 will be met and the criteria that will be used to evaluate and measure whether the partnership is meeting the goals;

(4) describe how the partnership will restructure and improve teaching, teacher preparation, and development programs at the institution of higher education and the professional development school, and how such systemic changes will contribute to increased student achievement;

(5) describe how the partnership will prepare teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

(6) describe how the teacher preparation program in the institution of higher education, and the induction activities and ongoing professional development opportunities in the professional development school, incorporate—

(A) an understanding of core concepts, structure, and tools of inquiry as a foundation for subject matter pedagogy; and

(B) knowledge of curriculum and assessment design as a basis for analyzing and responding to student learning;

(7) describe how the partnership will prepare teachers to work with diverse student populations, including minority individuals and individuals with disabilities;

(8) describe how the partnership will prepare teachers to use technology to teach students to high academic standards;

(9) describe how the research and knowledge generated by the partnership will be disseminated to and implemented in—

(A) elementary schools or secondary schools served by the local educational agency or located in the State; and

(B) institutions of higher education in the State;

(10)(A) describe how the partnership will coordinate the activities assisted under this title with other professional development activities for teachers, including activities assisted under titles I and II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq., 6601 et seq.), the Goals 2000: Educate America Act (20 U.S.C. 5801 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.); and

(B) describe how the activities assisted under this title are consistent with Federal and State educational reform activities that promote student achievement of higher academic standards;

(11) describe which member of the partnership will act as the fiscal agent for the partnership and be responsible for the receipt and disbursement of grant funds under this title;

(12) describe how the grant funds will be divided among the institution of higher education, the elementary school or secondary school, the local educational agency, and any other members of the partnership to support activities described in section 1106;

(13) provide a description of the commitment of the resources of the partnership to the activities assisted under this title, including financial support, faculty participation, and time commitments; and

(14) describe the commitment of the partnership to continue the activities assisted under this title without grant funds provided under this title.

SEC. 1108. ASSURANCES.

Each application submitted under this title shall contain an assurance that the professional development partnership—

(1) will enter into an agreement that commits the members of the partnership to the support of students' learning, the preparation of prospective and beginning teachers, the continuing professional development of veteran teachers, the periodic review of teachers, standards-based teaching and learning, practice-based inquiry, and collaboration among members of the partnership;

(2) will use teachers of excellence, who have mastered teaching techniques and subject areas, including teachers certified by the National Board for Professional Teaching Standards, to assist prospective and beginning teachers;

(3) will provide for adequate preparation time to be made available to teachers in the professional development school and faculty at the institution of higher education to allow the teachers and faculty time to jointly develop programs and curricula for prospective and beginning teachers, ongoing professional development opportunities, and the other authorized activities described in section 1106; and

(4) will develop organizational structures that allow principals and key administrators to devote sufficient time to adequately participate in the professional development of their staffs, including frequent observation and critique of classroom instruction.

SEC. 1109. NATIONAL ACTIVITIES.

(a) IN GENERAL.—The Secretary shall reserve a total of not more than 10 percent of the amount appropriated under section 1111 for each fiscal year for evaluation activities under subsection (b), and the dissemination of information under subsection (c).

(b) NATIONAL EVALUATION.—The Secretary, by grant or contract, shall provide for an annual, independent, national evaluation of the activities of the professional development partnerships assisted under this title. The evaluation shall be conducted not later than 3 years after the date of enactment of the Teacher Excellence in America Challenge Act of 1998 and each succeeding year thereafter. The Secretary shall report to Congress and the public the results of such evaluation. The evaluation, at a minimum, shall assess the short-term and long-term impacts and outcomes of the activities assisted under this title, including—

(1) the extent to which professional development partnerships enhance student achievement;

(2) how, and the extent to which, professional development partnerships lead to improvements in the quality of teachers;

(3) the extent to which professional development partnerships improve recruitment and retention rates among beginning teachers, including beginning minority teachers; and

(4) the extent to which professional development partnerships lead to the assignment of beginning teachers to public elementary or secondary schools that have a shortage of teachers who teach the subject matter in which the teacher received a degree or specialized training.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information (including creating and maintaining a national database) regarding outstanding professional development schools, practices, and programs.

SEC. 1110. SUPPLEMENT NOT SUPPLANT.

Funds appropriated under section 1111 shall be used to supplement and not supplant other Federal, State, and local public funds expended for the professional development of elementary school and secondary school teachers.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $100,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.

Ms. MILLENDER-McDONALD. I offer this amendment, Mr. Chairman, because we must improve the quality of teachers teaching our children. As a former educator in the Los Angeles Unified School District, I know the discouragement and despair that saps the morale and inspiration of our teachers, which directly impacts our children. I believe that we must restore the stature and importance of the profession of teaching. We must have the best-trained teachers if we expect our children to be the best.

This is why I have offered the Teacher Excellence Amendment which will change the way teachers are trained and improve the quality of teaching in America's classrooms. The language implements some of the recommendations from the National Commission on Teaching in America's Future, of which I am the only Member of Congress who serves on that commission.

My amendment, Mr. Chairman, will directly connect our teacher preparation system to our schools by establishing a competitive grant program for professional development partnership consisting of colleges, public schools, State and local educational agencies, teacher organizations, professional education organizations and others. If we are to make sure or to ensure that teachers are professionally trained, Mr. Chairman, we must make sure that we then have the type of professional development that will not just be weekend professional development but will be ongoing professional development.

The amendment also provides for the continuing development and professional training of veteran teachers, and it also provides for mentorship of prospective and beginning teachers by veteran teachers. We recognize that beginning teachers must have pre-induction and post-induction training and support systems. Therefore, this bill and this amendment would allow for that type of professional development of veteran teachers.

The amendment also increases recruitment to outreach for more diverse students toward teacher discipline. It prioritizes awarding of grants to programs serving low-income areas. It promotes the use of teachers of excellence, who have master teaching techniques in subject areas, to come back and teach those beginning teachers, as well

as teachers that are certified by the National Board of Professional Teaching Standards, to assist prospective and beginning teachers.

Now some of the weaknesses of the underlying bill: It prohibits a national system of teaching certification, and we from the National Commission of Teaching in America's Future recognize it is the fact that we must have a national system of teacher certification so that we will ensure that teachers are certified to teach in those prospective disciplines.

This amendment also authorizes $100 million as opposed to the 18 million that the present bill has. We see this as a need, if we are going to encourage more professional development, that is sorely needed for qualified teachers.

It also mandates governors to submit grant applications instead of allowing individual professional development partnerships to submit their own grant applications.

Mr. Chairman, I do urge that my colleagues support this teacher excellence amendment as it ensures America's teachers be the best trained they can be to educate our children for the world of work; and for that, Mr. Chairman, I ask for the approval of the amendment.

Mr. GOODLING. Mr. Chairman, will the gentlewoman yield?

Ms. MILLENDER-McDONALD. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, as I understand it, we are working with the gentlewoman between now and conference time to see what we can do with her desires.

Ms. MILLENDER-McDONALD. Mr. Chairman, I do hope that we can work together because there are a lot of provisions in my amendment that are not in the present bill, and I think it is critical that we include these provisions if we are going to indeed talk about professional training for teachers and ensure that teachers are qualified to teach in that discipline. And for that reason, I sure hope that I have the understanding from the gentleman that we will work with the provisions that I have in concert with what the gentleman has.

For that reason, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN pro tempore. The amendment offered by the gentlewoman from California (Ms. MILLENDER-McDONALD) is withdrawn.

AMENDMENT NO. 31 OFFERED BY MS. JACKSON-LEE OF TEXAS

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 31 offered by Ms. JACKSON-LEE of Texas: at the end of the bill, add the following new title:

TITLE XIII—EARLY DYSLEXIA DETECTION

SEC. 1202. EARLY DYSLEXIA DETECTION.

Directs the Secretary to conduct a study and submit a report to the Congress on methods for identifying students with dyslexia early in their educational training, and conduct such study in conjunction with the National Academy of Sciences.

MODIFICATION TO AMENDMENT NO. 31 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to modify my amendment with the modification at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 31 offered by Ms. JACKSON-LEE of Texas: in lieu of the matter proposed to be added at the end of the bill, add the following:

TITLE XI—SENSE OF THE HOUSE OF REPRESENTATIVES REGARDING DETECTION OF LEARNING DISABILITIES, PARTICULARLY DYSLEXIA, IN POST-SECONDARY EDUCATION

SEC. 1101. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that colleges and universities receiving assistance under the Higher Education Act of 1965 shall establish policies for identifying students with learning disabilities, specifically students with dyslexia, early during their postsecondary educational training so they may have the ability to receive higher education opportunities.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentlewoman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The modification is agreed to.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I do want to thank the gentleman from Pennsylvania (Mr. GOODLING) the chairperson, for both cooperating with me on this sense of Congress, but as well acknowledging the many efforts that we have offered and constructed dealing with learning disabilities and, in particular, dyslexia. Let me thank the gentleman from Missouri (Mr. CLAY) for his kindness and cooperation as well, the gentleman from California (Mr. McKEON), and the gentleman from Michigan (Mr. KILDEE) for their sensitivity to this issue.

Fifteen percent of the U.S. population, about 1 of 7 or 39 million Americans, have some form of learning disability according to the National Institutes of Health. While some students come to college already identified as having learning disabilities, others may not be recognized or begin to understand their difficulties until they reach college, and in particular because the pace changes.

Despite greater awareness of learning disabilities in elementary and high schools, children still slip through the cracks. Parents and teachers are understanding the reluctance to characterize their children's problems as disabilities, and therefore people with learning disabilities come as intelligent human beings and are as intelligent as the rest of the population, but a gap begins. Students with learning disabilities come to college with the same motivations as other students.

An article that appeared in the New England Journal of Medicine said, "A treatment of reading disorder, dyslexia, demands a life-span perspective. Why do you say that we have not detected it in the earlier years?" Well, sometimes that does not occur. Students go all the way through high school, come to college and find out at the moment when they are looking for their career, they cannot function.

Mr. Chairman, this is destructive and devastating. If an adult has a learning disability, they may experience many problems, but they no longer spend their day in school and cannot turn to the public school system for evaluation and special instruction. Our colleges do have this ability.

According to Dr. Sally Shaywitz, developmental dyslexia is characterized by an unexpected difficulty in reading in children and adults who otherwise possess the intelligence, motivation, and schooling considered necessary for accurate and fluent reading in order to be able to succeed. I could call off the roll, Mr. Chairman, of so many people of excellence throughout this Nation who will tell my colleagues, both quietly and publicly, "I have dyslexia," only discovered, however, late in life. Dyslexia is the most common and most carefully studied of the learning disabilities, affecting 80 percent of all those identified as learning disabled. Many become aware of dyslexia later in life because of the more rigorous pace of college.

So it is very important that this sense of Congress does acknowledge that education means excellence, and because of excellence we are going to work with the chairperson and demand that we focus on this very important element.

Let me also say, Mr. Chairman, if I might step briefly aside to say as the Riggs amendment comes to the floor of the House, it has not yet come, but because I think these are so much intertwined and related, I simply want to acknowledge my strong opposition to the Riggs amendment and will revise my remarks; for it is evident that in Houston when we defeated Proposition A, it is very clear that in defeating proposition A, we in Houston and in Texas have said no to eliminating affirmative action.

The Riggs amendment would propose to eliminate affirmative action in higher education. It is the same thing as holding someone back, not giving

them the opportunity. We have seen the evidence of diminishing applications for Hispanics and African-Americans in California and the devastation of Hopwood in Texas.

I would simply say, Mr. Chairman, that it is important that we create opportunities at all levels. Vote down the Riggs amendment. And I hope that my sense of Congress on the issue of dyslexia dealing with learning disabilities will see more highlight and more light on this issue of making sure that those very bright and intelligent individuals with learning disorders and dyslexia be treated in such a way that our colleges detect it and give them the opportunity to succeed and have an effective and positive career.

With that, Mr. Chairman, I would ask the gentleman from Pennsylvania (Mr. GOODLING just for a moment, and I will yield on the dyslexia sense of Congress; I would appreciate it if we could work together on this idea of making sure that everyone who has a learning disability has an opportunity to learn.

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Mr. GOODLING. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we accept the gentlewoman's sense of Congress resolution.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. Chairman, I rise to offer a Sense of Congress Amendment to H.R. 6, the Higher Education Amendment of 1998. This amendment directs the Secretary of Education to conduct colleges and universities to create policies for identifying students with dyslexia early in their college or university training.

Fifteen percent of the U.S. population-about one of seven-or 39 million Americans have some form of learning disability, according to the National Institutes of Health.

While some students come to college already identified as having learning disabilities, others may not recognize or begin to understand their difficulties until they reach college. Despite greater awareness of learning disabilities in elementary and high schools, children still slip through the cracks; parents and teachers are understandably reluctant to characterize a child's problems as "disabilities."

People with learning disabilities are as intelligent as the rest of the population. Their learning disability, however, creates a gap between ability and performance.

Students with learning disabilities come to college with the same motivations as other students: to explore interests, broaden knowledge and understanding, satisfy curiosity, and prepare to contribute to the working world and to society.

An article that appeared in the New England Journal of Medicine says the treatment of the reading disorder dyslexia demands a life-span perspective. Adults who have trouble reading or learning usually have had these problems since they were children. Their problems may stem from having a learning disability that went undetected or untreated as a child.

If an adult has a learning disability they may experience many problems, but they no longer spend their day in school and cannot turn to the public school system for evaluation and special instruction.

According to Dr. Sally E. Shaywitz, developmental dyslexia is characterized by an unexpected difficulty in reading in children and adults who otherwise posses the intelligence, motivation, and schooling considered necessary for accurate and fluent reading.

Dyslexia is the most common and most carefully studied of the learning disabilities, affecting 80 percent of all those identified as learning disabled.

The need to better understand the source of learning disabilities in adults is extremely important. Persons with learning disability may exhibit several of many behaviors.

They may demonstrate difficulty in reading, writing, spelling, and/or using numerical concepts in contrast with average to superior skills in other areas. They may have poorly formed handwriting. They may have trouble listening to a lecture and taking notes at the same time. The person may be easily distracted by background noise. They may have trouble understanding or following directions. Confuses similar letters such as "b" and "d" or "p" and "q". Confuses similar numbers such as 3 and 8, 6 and 9 or changes sequences of numbers such as 14 and 41. This is only a short list of those things which may indicate dyslexia in an adult.

The diagnostic process for adults with learning disabilities is different from diagnosis and testing for children. While diagnosis for children and youth is tied to the education process, diagnosis for adults is more directly related to problems in employment, life situations, and education.

Adults becoming aware of dyslexia later in their educational career can be due to the change of pace that is found in colleges and universities as well as the volume of work required to compete in higher education.

Policies by colleges and universities creating methods for identifying students with dyslexia early in their college or university training can allow us to provide assistance to the learning disabled as they work to obtain degrees or specialized training for careers.

Mr. Chairman, I rise today to speak against the Riggs Amendment to H.R. 6, the Higher Education Amendments of 1998. Plainly stated, the Riggs Amendment, if passed, would end all affirmative action measures directed toward creating more ethnically diverse student bodies in our Nation's institutions of higher learning. The issue here is very clear, the Riggs Amendment is a threat to the very kind of inclusiveness that we Americans say that we unequivocally cherish. Currently, as it has been repeatedly clarified by the highest Court in the land, any higher education admissions program that takes into account "race, sex, color, ethnicity or national origin", can only do so in a narrowly tailored fashion to remedy a specific art of discrimination (Adarand v. Pena, O'Connor) or as a "plus factor" to a college or university seeking to create a culturally and ethnically diverse student body (Bakke v. California Board of Regents, Powell). Simply stated, affirmative action admissions programs in this country do not operate without clear legal constraints. Blind preferences are not given to women and minorities in our nation's higher education admissions programs; essentially, affirmative action is a means to an end. The end of making our colleges and universities resemble the beautiful multi-ethnic diversity of our proud nation.

There is no doubt that without the active participation of the federal government in promoting affirmative action programs, the ability of minorities and women to effectively compete and matriculate into institutions of higher learning will be dramatically reduced. According to information released by Boalt Hall at the University of California, Berkeley, the elimination of affirmative action has produced a substantial drop in the number of offers of admission made to minority applicants other than Asians for fall 1997 at UC Berkeley's school of law. Boalt Hall made 815 offers of admission last year; 75 were made to African-Americans and 78 were made to Hispanics/Latinos. However, under the elimination of affirmative action at Boalt Hall, of the 792 offers of admission, only 14 were made to African-Americans and only 39 were made to Hispanics/Latinos.

In response to these dismal numbers, Boalt Hall dean Kay Hill stated, "this dramatic decline in the number of offers of admissions made to non-Asian minority applicants is precisely what we feared would result from the elimination of affirmative action at Boalt." In Texas the numbers are no better. In the class that began at the University of Texas Law School last fall, of the 791 students admitted, only 5 African-Americans and 18 Hispanics were admitted. This is a striking contrast to the 65 African-Americans and 70 Mexican Americans admitted last year.

Additionally, undergraduate enrollment has dropped as well. 421 African-Americans and 1,568 Hispanics were admitted to the University of Texas in 1996. However, in 1997, only 314 African-Americans and 1,333 Hispanics received offers for admittance. The total enrollment at the four University of Texas medical schools has dropped from 41 African-Americans in 1996 to only 22 for 1997. The assault on affirmative action will have dramatic results in the number of doctors, lawyers, individuals holding advanced degrees in the African-American and minority communities.

There is no doubt that these dismal numbers in Texas are a direct result of the decisions in Hopwood versus Texas. Four white rejected applicants to the University of Texas school of law sued in Federal court, claiming that the law school's 1992 affirmative action program violated the U.S. Constitution. The court held that the state university's law school admission program which discriminated in favor of minority applicants by giving substantial racial preferences in its admission program violated equal protection.

The panel of justices in Hopwood ruled that any consideration of race or ethnicity by the University of Texas law school for the purpose of achieving a diverse student body is not a compelling interest. The court reasoned that the use of race for diversity purposes was grounded in racial sterotyping and stigmatized individuals on the basis of race. Additionally, the court in Hopwood rejected consideration of

race as a remedy for the present effects of past discrimination. The court refused to include prior discrimination by the undergraduate school of the university or discrimination within Texas' elementary and secondary schools as a reason for the law school to use a remedial racial classification.

We seek affirmative action today because we are still suffering from the history of affirmative racism in this county. Even the court in Adarand acknowledged that the government has a compelling interest in remedying the "unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country." I vehemently disagree with the court in Hopwood in saying that diversity is not a compelling interest. It is evident that the justices in Hopwood have not had the pleasure and experience of participating in a diverse setting. As Jonathan Alger of the American Association of University Professors wrote, "diversity is not a dirty word."

Regents of the University of California versus Bakke is the law of the land. In the 1978 Bakke decision, Justice Powell found that a diverse student body in a university setting enhances the learning environment for all students and therefore is a compelling interest in support of affirmative action. The court held that the rigid reservation of 16 places on the basis of race was unconstitutional. However, Bakke concluded that the flexible consideration of race, as one of many factors used to obtain a highly qualified, diverse entering class as permitted by the constitution.

Therefore, we must continue our commitment to prioritize diversity as an important and worthy necessity in achieving the goal of true racial inclusion in this country. As the great civil rights activist and former national director of the Urban League, Whitney Moore Young, Jr. Wrote in his 1964 book To Be Equal, "only hopelessly insecure, tragically immature people need to surround themselves with sameness. People who are secure and mature, people who are sophisticated, want diversity. One doesn't grow by living and associating only with people who look like oneself, have the same background, religion, and interests." So please join with me and vote down the Riggs Amendment of H.R. 6.

The CHAIRMAN pro tempore (Mr. EWING). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

AMENDMENT NO. 63 OFFERED BY MR. HALL OF TEXAS

Mr. HALL of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Did the gentleman from Texas have his amendment printed in the RECORD?

Mr. HALL of Texas. Mr. Chairman, it is my understanding that it was.

The CHAIRMAN pro tempore. The Clerk has already read title VIII. Does the gentleman request unanimous consent for his amendment to be considered?

Mr. HALL of Texas. Mr. Chairman, I ask unanimous consent that my amendment be considered at this point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 63 offered by Mr. HALL of Texas: At the appropriate place in the bill to Title VIII insert the following new section:

SEC. TEXAS COLLEGE PROVISION.

The Secretary may not consider audit deficiencies relating to record keeping with respect to qualifying students for financial aid at Texas College, located in Tyler, Texas, for academic years prior to and including academic year 1994–1995 in determining whether Texas College complies with the financial responsibility and administrative capacity standards under Section 498 of the Higher Education Act of 1965, if Texas College has filed an affidavit with the Department of Education stating that it has made a good faith effort to furnish records to the Department with respect to such audits.

Mr. HALL of Texas. Mr. Chairman, this amendment would preclude the U.S. Department of Education from imposing audit deficiencies on Texas College that result from records not maintained or retained by the college administrators for academic years 1990–1991 to the arrival of the current administration at the college in 1994.

Although a very diligent effort has been made and is continuing to be made by the staff of the current administration to locate these records, it is to no avail due to failures of previous personnel. There has been an effort made to produce these records, and they are just not available.

They produced a number of answers to the questions, inquiries submitted by the Department of Education, I think enough to allow the department some leeway, and we are working with the department at this time in order to work this matter out.

Texas College's current application for participation in the title IV student assistance programs is being, I think, needlessly delayed based on the absence of records and assertions that failure to produce such records means the current administration is financially irresponsible and administratively incapable.

That is just not the situation. We have Texas College, which is a black college founded in 1894, affiliated with the Christian Methodist Episcopal Church. Bishop Gilmore serves as the Episcopal bishop in Texas. We have had a new president, Dr. Strickland, at Texas College since November of 1994.

The members of the board and their associations have put millions of dollars into this college in order to keep it open. They have, against great odds, kept it open since the funds were cut off in 1994. We intend to keep on doing that. Although Texas College may be liable for certain deficiencies associated with the absence of these records, their absence should not bear on the present capacity to administer title IV funds with personnel, new personnel, new administrative policies, and new financial aid procedures.

Mr. Chairman, this amendment simply relieves Texas College, if they make a good-faith effort to furnish such records, from having to produce records that may no longer exist as it seeks to reestablish its title IV eligibility.

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

Mr. HALL of Texas. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Chairman, we are discussing this issue because this has been an ongoing dialogue that the gentleman from Texas (Mr. HALL) and I have had with the Department of Education. We believe that our work on behalf of Texas College is not only very deserving, but what we are attempting to do here this evening is to reinforce to the Department of Education that we believe that Texas College is making every single effort that they can to comply with the Department of Education and, further, to make sure that they have provided to the Department of Education those things that are necessary for certification.

The reason that we are here is because this discussion is taking place today about education, and we would wish at this time to make sure that the Department of Education knows that we are attempting to work with them; and that the gentleman from Texas (Mr. HALL) and I, while we are offering this amendment, I believe that at this time we would wish not to go further with this amendment.

Mr. HALL of Texas. Mr. Chairman, reclaiming my time, I thank the gentleman.

Most of the issues have already been addressed by Texas College and the subject of repayment agreements have been satisfied by the college and are the subject of an appeal that is filed with the Department of Education. The Department of Education is working with us.

I thank the Chairman and I thank my colleagues for their time.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 411, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 75 offered by Mr. ROEMER of Indiana;

Amendment No. 70 offered by Mr. MILLER of California;

Amendment No. 5 offered by Mr. STUPAK of Michigan.

AMENDMENT NO. 75 OFFERED BY MR. ROEMER

The CHAIRMAN. The pending business is the demand for a recorded vote

on the amendment offered by the gentleman from Indiana (Mr. ROEMER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

The vote was taken by electronic device, and there were—ayes 292, noes 129, not voting 11, as follows:

[Roll No. 130]

AYES—292

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Bachus
Baesler
Baker
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Calvert
Camp
Campbell
Capps
Cardin
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Combest
Conyers
Costello
Cox
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Goode
Goodlatte
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shays
Sherman
Sisisky
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thompson
Thune
Thurman
Tierney
Torres
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates

NOES—129

Archer
Armey
Ballenger
Barr
Bass
Bilbray
Bliley
Boehlert
Boehner
Brady
Bunning
Burr
Burton
Callahan
Canady
Cannon
Chambliss
Chenoweth
Coble
Coburn
Collins
Condit
Cook
Cooksey
Crane
Crapo
Cubin
Davis (VA)
DeLay
Diaz-Balart
Doolittle
Dunn
Ehrlich
Everett
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodling
Goss
Granger
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hill
Hobson
Hoekstra
Hunter
Hutchinson
Hyde
Inglis
Johnson, Sam
Kasich
Kelly
Kim
Kingston
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McInnis
McIntosh
McKeon
Metcalf
Miller (FL)
Mollohan
Ney
Northup
Norwood
Nussle
Packard
Parker
Petri
Pickering
Pitts
Pombo
Pryce (OH)
Redmond
Regula
Riley
Rogan
Ros-Lehtinen
Ryun
Sabo
Schaefer, Dan
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith, Linda
Snowbarger
Solomon
Souder
Stump
Sununu
Thomas
Thornberry
Tiahrt
Traficant
Weller
Wicker
Young (AK)
Young (FL)

NOT VOTING—11

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Skaggs
Spratt

□ 1844

Messrs. HOEKSTRA, REDMOND, SKEEN, DAVIS of Virginia, GILMAN, FOLEY and ROGAN changed their vote from "nay" to "no."

Messrs. McDERMOTT, DUNCAN, CALVERT, JOHNSON of Wisconsin, BLUMENAUER, QUINN, McHUGH, DICKEY, PAXON, McCRERY, SALMON, BROWN of California, ADERHOLT, BAKER, MARTINEZ and SPENCE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 411, the Chair announces the 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 NO. 70 OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. The pending 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 ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

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 393, noes 28, not voting 11, as follows:

[Roll No. 131]

AYES—393

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
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
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
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.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—28

Barr
Bonilla
Cannon
Coburn
Collins
Cubin
Dickey
Doolittle
Hall (TX)
Herger
Johnson, Sam
Kolbe
Largent
Miller (FL)
Packard
Paul
Pombo
Rohrabacher
Sanford
Sensenbrenner
Sessions
Shadegg
Smith (MI)
Stump
Taylor (NC)
Thornberry
Tiahrt
Wicker

NOT VOTING—11

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Skaggs
Spratt

□ 1855

Mr. FRELINGHUYSEN and Mr. ROYCE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. STUPAK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

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 219, noes 200, not voting 13, as follows:

[Roll No. 132]

AYES—219

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Baker
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clyburn
Coburn
Conyers
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Fox
Frost
Furse
Ganske
Gejdenson
Gephardt
Gillmor
Gilman
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Largent
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
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
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schumer
Scott
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thurman
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates
Young (FL)

NOES—200

Aderholt
Allen
Archer
Armey
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Goode
Goodlatte
Goodling
Goss
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Nethercutt
Ney
Northup
Norwood
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Taylor (NC)
Thornberry
Thune
Tiahrt
Tierney
Upton
Walsh
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)

Weller	Whitfield	Wolf
White	Wicker	Young (AK)

NOT VOTING—13

Bateman	Hastings (FL)	Shaw
Carson	McNulty	Skaggs
Christensen	Myrick	Spratt
Doyle	Neumann	
Gonzalez	Radanovich	

□ 1902

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. GOODLING. Mr. Chairman, I move to strike the last word in order to announce what the proceedings will be for this evening.

We now have a 2-hour window where there is a 2-hour debate on the Riggs amendment. We will then vote on the Riggs amendment. Then we will have the Campbell amendment. And then we will vote on the Campbell amendment. Then we will have final passage.

So everybody knows, the next 2 hours will be general debate. We will finish the bill this evening.

AMENDMENT NO. 73 OFFERED BY MR. RIGGS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 73 offered by Mr. RIGGS:

Add at the end the following new title (and conform the table of contents accordingly):

TITLE XI—DISCRIMINATION AND PREFERENTIAL TREATMENT

SEC. 1001. PROHIBITION AGAINST DISCRIMINATION AND PREFERENTIAL TREATMENT.

(a) PROHIBITION.—No public institution of higher education that participates in any program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall, in connection with admission to such institution, discriminate against, or grant preferential treatment to, any person or group based in whole or in part on the race, sex, color, ethnicity, or national origin of such person or group.

(b) EXCEPTION.—This section does not prohibit preferential treatment in admissions granted on the basis of affiliation with an Indian tribe by any tribally controlled college or university that has a policy of granting preferential treatment on the basis of such affiliation.

(c) AFFIRMATIVE ACTION ENCOURAGED.—It is the policy of the United States—

(1) to expand the applicant pool for college admissions;

(2) to encourage college applications by women and minority students;

(3) to recruit qualified women and minorities into the applicant pool for college admissions; and

(4) to encourage colleges—

(A) to solicit applications from women and minority students, and

(B) to include qualified women and minority students into an applicant pool for admissions.

so long as such expansion, encouragement, recruitment, request, or inclusion does not involve granting a preference, based in whole or in part on race, color, national origin, or sex, in selecting any person for admission.

(d) DEFINITION.—As used in this section, the term "public institution of higher education" means any college, university, or postsecondary technical or vocational school operated in whole or in part by any governmental agency, instrumentality, or entity.

The CHAIRMAN. Pursuant to the order of the Committee of Tuesday, May 5, 1998, the gentleman from California (Mr. RIGGS) and the gentleman from Missouri (Mr. CLAY) will each control 1 hour.

The Chair recognizes the gentleman from California (Mr. RIGGS).

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

Mr. Chairman, first of all, let me say that I hope we can approach debating this issue with open minds and open hearts, and that we can stipulate at the beginning of this debate that we are people of good will who can have genuine disagreements at times but who, because of the high elective offices and the public trust that we hold, have an obligation to debate issues such as the one that I put before the House this evening.

I want to say at the beginning of my comments that I acknowledge that discrimination continues to exist in our society and that it is morally wrong, but I believe we will never end discrimination by practicing discrimination, and I believe it is time for the United States Congress to end preferences once and for all.

Now, let me, at the beginning of the debate, explain what my amendment does and does not do. First of all, I should explain that my amendment is substantively different from the amendment of the gentleman from California (Mr. CAMPBELL), which will follow mine. And not to preempt that gentleman, but I am very pleased to have his support of my amendment and intend to reciprocate by supporting his amendment.

My amendment is very simple and straightforward. In a way, I guess it would have been good for the Clerk to actually have read it, because it is concise enough. My amendment is patterned after California's Proposition 209, the California civil rights initiative, and it is intended to bring an end to racial preferences in college admissions.

My amendment very specifically, very succinctly bans public, I say again, public colleges and universities that accept Federal funding under the Higher Education Act from using racial or gender preferences in admissions. My amendment does not in any way, though, impinge on minority outreach programs or minority scholarships for qualified individuals.

I am very proud of the fact that a couple of years ago I was recognized and honored by the TRIO organization for my efforts to expand the funding for TRIO, which is a minority outreach and minority scholarship program that encourages institutions of higher learning, 4-year colleges and universities, to establish partnerships with secondary institutions of learning, high schools.

So I want to say that I strongly believe in affirmative steps to expand the pool of qualified minority applicants at every public college or university as long as, as long as the school admission decision is not made on the basis of race or sex. I believe that we can achieve the twin goals of diversity in minority outreach without the need for preferences that favor one minority group over another, as has been the case in California, and as I will elaborate as the debate proceeds tonight.

Now, I believe I have a chart here, and maybe we will get it up with the help of one of the pages. I would like to, as this chart goes up, tell my colleagues of some recent polling data that demonstrates, I think unequivocally, that Americans overwhelmingly support legislation to make hiring, contracting, and college admissions race and gender neutral.

Here are the highlights of that polling data. Seven in 10 voters believe that California's Proposition 209 should not be overturned. But more importantly, nearly 9 out of 10, 87.2 percent of Americans, said race should not be a factor in admission to a public college or university. And that included more than 3 out of 4, 75.7 percent, of African-American voters who were surveyed and who said that race should not be a factor in admission to a public college or university. So I believe the time has come for this body to act.

I realize that there are a lot of people who wish that this debate would go away or at least could be held for another date, preferably beyond this election cycle. But as our friend, my friend and colleague, the gentleman from Oklahoma (Mr. J.C. WATTS), told me the other day, there is never a wrong time to do the right thing.

I want to make it very, very clear that I intended to offer this amendment last year to the annual spending bill, the appropriations bill for the Department of Education, but waited for this debate and this day to offer this amendment so that it could be more appropriately discussed in the context of reauthorizing the Federal/taxpayer-funded higher education programs.

I do not want my colleagues to be misled about my amendment. I have made modifications to this amendment to make it more acceptable to more Members of this body. First of all, with some reservation, I excluded private colleges and universities, even though almost all private colleges and universities receive substantial Federal-taxpayer funding for student financial aid under this legislation.

Secondly, as I will point out in a later colloquy with our colleague, the gentleman from Arizona (Mr. HAYWORTH), I specifically excluded tribally-run institutions, colleges and

universities on tribal reservations, or Indian lands, even though most of them are public, and my bill now applies only to public colleges and universities. But I did that because of the concerns that I heard, loud and clear, about treaty obligations, tribal sovereignty, and the government-to-government relationship enjoyed between the United States of America, the Federal Government, and tribal governments around the country.

My amendment does not ban single-sex schools. In fact, it expressly allows them. It does not prevent courts from fashioning remedies to actual discrimination. There is ample authority for such action under current civil rights law dating back to the 1964 Federal Civil Rights Act.

My amendment does not, as I said earlier, prevent schools from minority recruitment outreach or scholarships, and it does not, and I say this to my Republican brethren, my more conservative colleagues, it does not increase the role of the U.S. Department of Education in admissions oversight. In fact, it would stop the Department of Education's Office of Civil Rights' practice of telling public colleges and universities to grant admission preferences even where courts have expressly ruled against them, as in the case of the University of Texas Law School and the Hopwood case.

So I want to make clear that people should not be dissuaded from doing what is right under the Constitution by erroneous arguments that opponents to my amendment may make during the debate a bit later.

As the author of California's civil rights initiative, Proposition 209, Ward Connerly pointed out, who is an African-American businessman who serves on the University of California's Board of Regents, granting an individual preference based on their race or gender means another individual has been discriminated against based on their race or gender. And that is as succinct and compelling an argument as I can make for my amendment this evening.

□ 1915

I think we all know that different groups suffer under affirmative action in admissions the way it operates in America today. Minority group members suffer because when they are admitted under lower standards; they oftentimes perform less well. They need remedial help. They are at risk of dropping out. Many of them do not complete a 4-year college education and obtain a college degree. And unfortunately, other people on that campus and in the college community all too often make that link between subpar performance and someone's skin color.

That is wrong. That is as discriminatory in thought as racial preferences are in practice. Stereotypes are reinforced, not diminished.

Secondly, individuals who are not members of minority groups but are otherwise academically qualified students are oftentimes excluded in order to admit individuals with lesser credentials.

Let me just tell my colleagues one of the arguments that is being made here. I want to make reference to a recent article in the New Republic by a man, Nathan Glazer, who wrote a book back in 1975 titled, provocatively enough, "Affirmative Discrimination," and who is now apparently reconsidering his position and comes to the conclusion that affirmative action is bad but banning it is worse.

In the context of this article he says, "I have focused on the effects of affirmative action, or its possible abolition, on African-Americans. But of course, there are other beneficiaries. Asian Americans and Hispanics are also given affirmative action." Then he goes on to say, and I wonder if these words strike my colleagues as discriminatory as they strike me, "But Asian Americans scarcely need it." He and others contend that most Asian Americans, most young people of Asian ancestry come from affluent communities and therefore have some sort of socioeconomic advantage that most African-Americans do not have.

Well, have my colleagues ever been to a Chinatown in a big city in America? Would we consider that to be an affluent community? Do we lump all Asian Americans together, including Cambodians, Laotians, the Mung population, all the recent immigrants to America, many of whom have struggled to obtain American citizenship, of Asian American ancestry?

Those kinds of words are inherently discriminatory. We cannot, we should not allow a practice that pits one racial group against another. That is what has happened in California. That is part of the genesis, if you will, for Proposition 209. Asian Americans were being excluded from consideration for admissions because the University of California was practicing a policy that gave preference to other minority groups, namely African-Americans and Hispanic Americans.

Is that fair? Is it right? Will someone come down to the well tonight and argue that that practice should be continued? What would my colleagues say to those Asian American young people and to those families in California that have been blatantly discriminated against as a result of these practices?

I also want to point out that colleges and universities are lessened by the hypocrisy of ostensibly being in favor of equal opportunity, but actually practicing discriminatory policies. And, colleagues, it is going on all over the country.

Here is an article from USA Today dated November 28, 1997. It says how Michigan admittance standards differed.

Now, there is a chart here. My colleagues have to understand the background of this chart. This chart came to light through a Freedom of Information request filed by philosophy professor Dr. Carl Cohen, who is a former, and I quote from the article, former board member of the ACLU, American Civil Liberties Union, and the author of a 1995 book called "Naked Racial Preferences: The Case Against Affirmative Action."

Here is the chart, and this is the basis for current litigation filed by two students against the university, two white students charging bias by the University of Michigan. I quote from the article with respect to this chart.

I just want to tell the young lady here, the page, that she will not find that chart in the charts we prepared. But I will make it available and I will make sure it is inserted later, when we rise from the Committee of the Whole and go back into the House, into the RECORD.

But I quote from the article. At the heart of the lawsuit filed by these students is what opponents of affirmative action call "the smoking gun." A chart, this chart, my colleagues, right here, and would I love to share this with my colleagues if they would like to come up and take a closer look, a chart that, according to the USA Today article is used by the university's admissions office to decide who gets in and who does not. This chart clearly, indisputably demonstrates that whites and minorities with identical grades and test scores meet different fates. The white applicants are rejected or deferred while minorities are automatically admitted. That is what this chart shows.

And as Dr. Cohen points out, the point I just tried to make a moment ago, and he can make it better, I quote Dr. Cohen. "I want the university," referring to the University of Michigan, "to be a place, to live up to its ideals, not betray them to accomplish a short-range objective. Constitutions are designed to prevent taking shortcuts."

And lastly, the community as a whole suffers under affirmative action the way it now operates because the different or disparate treatment of racial groups breeds mistrust. The time has come to put an end to affirmative action. And while I say that as it is being practiced in college admission policies, I hasten to add that I have worked long and hard to try and create more opportunity, better opportunity, I hope some day equal opportunity for every American.

And as the gentleman from Oklahoma (Mr. WATTS) said to me, if we want affirmative action in American society, and I know he signed on to a Dear Colleague with our good friend, the gentleman from Georgia (Mr. LEWIS), but as my colleague told me the other day, if we want affirmative

action, we have to start by approving the quality of primary and secondary education in America. That is where affirmative action begins, not in higher education. It starts in ensuring that every child in every elementary school around the country has the opportunity to receive a first-class, a world-class education. That is the very point that the gentleman from Pennsylvania (Mr. GOODLING) has made in supporting my amendment.

I want to quote from the statement that he sent out. He said that he supports my amendment and said, "The continued use of preferences in admissions does nothing but pit one minority group against another, while building a society of legal and ethnic divisions. It is time to put a stop to this discriminatory practice."

He goes on to say that my amendment embodies the idea of a color-blind society. Well, I am not the one that advanced the idea of a color-blind society. In modern times, that vision is the vision of Dr. Martin Luther King, Jr. I think everybody knows that. He was the one that talked about a day when someone would be judged by the content of their character, not the color of their skin.

But the chairman and I have, and I hope most Members of this body on a bipartisan basis, can agree that the best way to help women and minorities succeed in college and later in the workplace is by giving them a sound education at the primary and secondary level. Quality education is the key, not some system as has evolved at too many public colleges and universities around the country of contrived admission preferences or quotas for particular groups.

Mr. LEWIS of Georgia. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from Georgia.

Mr. LEWIS of Georgia. Mr. Chairman, I say to my colleague, the gentleman from California (Mr. RIGGS), I knew Martin Luther King, Jr., very well. I worked with him for many years. He was my friend, my leader, my hero, my brother. If he was standing here tonight, I tell my colleagues, he would say he believes in a color-blind society, but he would tell us that we are not there yet, and he would not be supporting the Riggs amendment.

So I think that it is not right to use Martin Luther King in this manner.

Mr. RIGGS. Mr. Chairman, reclaiming my time, I respect the opinion of the gentleman from Georgia.

Mr. Chairman, I will continue for just a moment to say that Martin Luther King, I think we can agree on this, he dreamed of the day, he spoke of the day, he preached of the day when all Americans would participate freely in the American dream.

I cannot see how continuing institutionalized discrimination, or if we want to go one step further, institutionalized racism, and I do not use that word lightly because I know it is an explosive word, I cannot see how that moves us towards the realization of Dr. King's vision. Because I believe institutionalized discrimination is inherently unfair, it is undemocratic, and I think ultimately it is anti-American.

With all due respect to the gentleman from Georgia (Mr. LEWIS), who obviously knew Dr. King well and worked with him, I would like to believe that Dr. King would agree that as we approach the dawn of a new millennium, now is the time to try to move our country in the direction of a post-affirmative action era where we really can build, working as individuals and human beings and as American citizens and as children of God, a color-blind society.

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

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

First of all, Mr. Chairman, I would like to correct the RECORD. The previous speaker referred to the TRIO program as a minority outreach program, but it is not. It is a disadvantaged outreach program, and the majority of students enrolled in TRIO are white.

Mr. Chairman, I rise in opposition to the amendment being offered by the gentleman from California (Mr. RIGGS). His attempt to ban the use of affirmative action efforts by colleges and universities is nothing more than a scheme to return the system of higher education to the bad old days of racial segregation. If we follow that direction, our schools will again become a bastion of white, male, good old boys.

In addition, this amendment completely shatters the bipartisan nature of H.R. 6, which has been successfully developed by the members of the Committee on Education and the Workforce. It is a cruel hoax, Mr. Chairman, to declare that we live in a color-blind society in which only merit counts. Merit is only one criterion for college admissions.

Children of alumni have always received special treatment. Children of wealthy donors have always been shown preferential treatment. Athletic ability and musical talents have always been major considerations when deciding whom to admit to colleges and universities. Colleges routinely seek to have classes which reflect geographical differences and other kinds of diversity in the belief that diversity is good educationally.

Affirmative action was not designed to deny rights unjustly to those qualified, but to provide remedies for those qualified who are unjustly denied. For this Congress to now prohibit efforts by university leaders to correct centuries of inequitable admission practices is an arrogant abuse of Federal power. It has taken the Nation's colleges nearly 3 decades to develop and implement admission policies which have begun to close the educational gap existing between minorities, women, and their white male counterparts.

Mr. Chairman, this amendment is identical to Proposition 209, passed by California voters, and its effects on minority admission to institutions of higher learning will be just as devastating. Admissions of African-American, Latino, and American Indian students for next fall's classes have plunged by more than half at the University of California at Berkeley; and admissions of minorities to the University of California's three law schools have dropped 71 percent for blacks and 35 percent for Latinos.

Mr. Chairman, there is no validity to the argument that enrollment declines are indicative of previously ineligible students being admitted to these institutions of higher learning. The fact is that over 800 minority students with grade point averages of 4.0 and SAT scores of over 1,200 were denied admission to the University of California at Berkeley.

The simple fact is that some believe women, blacks, and Latinos should not be afforded a higher education. The Riggs amendment would embody that belief in Federal law. It was bad policy during the awful period of Jim Crow laws in America, and it is bad policy now.

Mr. Chairman, measured by any benchmark, access to equal educational opportunity remains a distant dream for racial minorities. I strongly urge a "no" vote on the Riggs antiaffirmative action amendment.

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

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Chairman, I did not go to Harvard. I did not attend Yale. I could not. I could not even attend Troy State University, just a few miles from my home, because of the color of my skin.

For 200 years, millions of African-Americans could not go to college. The doors of higher education, of opportunity, were shut simply because of the color of our skin.

□ 1930

Today African-Americans and other minorities are attending Troy State, Harvard, Yale, and nearly every institution of higher learning because of merit and because of affirmative action. Affirmative action opens the door for those who grew up with less hope and less opportunity, because of the color of their skin, because their parents did not go to college, because their family has yet to overcome 200 years of government-sanctioned discrimination.

Opponents of affirmative action say they want a colorblind society, but ending affirmative action is not colorblind. It is blind to centuries of discrimination, blind to the racism that is still deeply embedded in our society, blind to the barriers that continue to confront generation upon generation of African-American and other minorities.

Mr. Chairman, we have fought too long and too hard and come too far. We cannot let affirmative action be destroyed. People have gone to jail. People have been beaten. People have lost their lives. Now we must fight one more time against those who wave the banner of fairness but really want to slam the door of opportunity in the face of young people across our Nation.

Mr. Chairman, I urge our colleagues to stand up for diversity, hope and opportunity by defeating this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. I thank the gentleman for yielding me this time. Mr. Chairman, I urge my colleagues to defeat the Riggs amendment.

I want to talk for a moment about some truths and some myths, because here is the truth. When the door of opportunity is opened to students who are called special admits or affirmative action, they perform equally well to the other students. They perform equally well. The Chronicle of Higher Education recently published a study which compared the graduation rates of special admit medical students with non-special admit medical students. Ninety-eight percent of the non-special admit students graduated. Ninety-four percent of the special admit students graduated, an insignificant statistical difference. Once you open the door, everyone who is willing and able can walk through it equally.

This amendment slams the door. Let us talk about the myth of merit. Let us perfect this amendment to make sure it does not perpetuate that myth. Let us have merit. Let us have a Federal law that says if your mother or father is on the board of trustees of the university, you do not get special treatment. Let us have merit. Let us say if your aunt or your uncle or your grandparents gave a lot of money to the school, you do not deserve special admission. Let us have merit. Let us say if you are the son or daughter of the member of the State legislature or the mayor or a Member of the United States Congress, you do not deserve special admission. Let us have merit. Let us say that if you are not someone from a special geographic region of the country or state of the world you do not deserve special treatment. Let us have merit. Let us say that if you are not someone from a different ethnic group that is not fully represented, you do not deserve special admission or special treatment.

Merit is a concept that lives only in mythology. It does not live in the admissions offices. This amendment should be defeated for that reason.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT).

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

Mr. Chairman, legislative language similar to the proposed amendment has been enacted in Texas and California. After the adoption of those policies, educational opportunities for minorities plummeted to their lowest levels since the 1960s and in some schools those opportunities disappeared altogether. You cannot change the known impact of this amendment by using glorious rhetoric or a misleading title or results of a slanted poll. We know what this amendment will do.

Mr. Chairman, the admissions policies have never been totally fair. Those who are children of alumni get preferences, children of large contributors get preferences, those who can afford to pay tuition without a scholarship get preferences, those who can perform well on a culturally biased test get preferences.

Mr. Chairman, affirmative action serves as a counterbalance to those disadvantages that minorities suffer. Without affirmative action we will return to the unlevel playing field and turn the clock back to the 1960s.

Mr. Chairman, the Supreme Court has limited the use of affirmative action to policies which are narrowly tailored to address the compelling State interest. So as the need for affirmative action drops, so will the practice of affirmative action.

This amendment, however, will prohibit the use of affirmative action even in cases where there is a need to remedy proven cases of racial discrimination. Mr. Chairman, you can quote Martin Luther King, you can talk about dreams, but we know what this amendment will do. Minority opportunities will plummet if this amendment is adopted. That is why those of us who celebrate diversity in America are opposing this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I rise in opposition to the Riggs amendment. This amendment would involve an unprecedented Federal intrusion into the admissions practices of colleges and universities. It would require an extensive apparatus to monitor admissions policies nationally. This seems monumentally unwise.

Twenty years ago, the Bakke decision developed a careful and delicate balance for college admissions. Quotas were declared unconstitutional, as they should be. Gender and race can never be the sole or decisive factor in the admissions process. This made sense then and it makes sense now. But colleges and universities should be able to reach out to widen their pool of applicants, to bring previously deprived or disenfranchised people into higher education without fear of legal retribution.

I know how this works from my years of experience as an admissions officer in a graduate department of a large university. Affirmative action offers a way of taking into account the backgrounds from which students come, assessing their true potential, and opening the doors of opportunity. For the Federal Government to interject itself into these decisions, to reduce flexibility, to force the use of overly narrow or rigid criteria, would be most unwise.

Affirmative action, Mr. Chairman, is about fairness and equal opportunity for individuals. But it is also about community: about the academic community itself, diversifying that community to make education a broadening and enriching experience. And it is about serving the wider community, recruiting a student body that reflects the society being served, and training doctors and lawyers and teachers and business people and others to serve all elements of that community.

The Riggs amendment ignores this experience and threatens these values. For those reasons, it ought to be rejected.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, we have worked hard in this country to create the best colleges and universities in the world. I have actually devoted much of my time in Congress to expanding access to higher education for every student in America. In fact, is that not what this higher education bill is supposed to be about, expanding education to every student in America?

I rise in strong opposition to the amendment offered by the gentleman from California (Mr. RIGGS). Quite simply, this amendment, which was modeled after California's Proposition 209, blocks opportunity to higher education for women and minority students across the country. It is not a mystery that dismantling affirmative action destroys needed opportunity for America's college campuses.

Look at my own State and the State of Mr. RIGGS, California, where the rollback has already begun. The University of California Boalt Law School, one of the best public law schools in America, enrolled only one African-American student in its freshman class last fall. Also at UC-Berkeley African-American admissions have plummeted by 66 percent. Latino enrollment fell by 53 percent. At UCLA, African-American admissions in the freshman class

dropped by 43 percent while Latino enrollment fell by 33 percent. At California graduate schools, where the clock has already begun ticking and been turned back, both medical schools and law schools experienced a significant decline. This is what I call stepping backward in our goal, our goal to make higher education accessible to all Americans.

Mr. Chairman, women and minorities in America simply cannot afford to have this crucial support chipped away. Let me review a few simple facts with my colleagues. Women earn 71 cents for every dollar compared to a man. Mr. Chairman, I ask my colleagues to please not vote to roll back affirmative action.

Mr. RIGGS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this amendment. This is not repealing affirmative action. It is reforming it and making a giant step forward while preserving all civil rights requirements.

Mr. Chairman, I rise in support of this amendment to the Higher Education Act. This amendment eliminates arbitrary quotas and set asides and erases the reverse discrimination that has grown over the years.

This amendment reaffirms our encouragement of affirmative action through expansion of the applicant pool and active recruitment of qualified women and minorities. At the same time this amendment makes it clear that such encouragement and recruitment does not involve granting a preference, or fulfilling a quota.

This amendment has been changed from its initial form, in such a way that positively reaffirms our nation's commitment to affirmative action's goals and ideals.

In other words we are reforming affirmative action as we know it, while protecting civil rights for all people.

CURRENT ADMISSIONS

We all know, admissions to colleges now involve preferences and quotas.

REVERSE DISCRIMINATION

This amendment reafffirms the original concept of affirmative action through vigorous and systematic outreach, recruitment and marketing efforts among qualified women and minorities.

This amendment seeks to restore the colorblind principle to federal law by higher education institutions from granting any preference to any person based in whole or in part on race, color, national origin, or sex.

When affirmative action and nondiscrimination were first enacted, through Kennedy's executive order in 1963 (establishing the President's Committee on Equal Employment Opportunity) and through the Civil Rights Act of 1964, the goals were: promotion and assurance of equal opportunity without regard to race, creed, color or national origin; encouragement of positive measures toward equal opportunity for all qualified people, and expansion and strengthening of efforts to promote full equality of employment opportunity.

MAINTAINS CURRENT ANTIDISCRIMINATION LAWS

Before opponents of this amendment raise their voices, let me also add that this legislation absolutely maintains this nation's existing antidiscrimination laws. If it did not, I would not be here.

This amendment maintains existing Civil Rights Laws, which are there to remedy individuals who are victims of discrimination.

Further, it is consistent with Civil Rights Laws by prohibiting discrimination.

Over the course of time, I have been a strong supporter of affirmative action. Its goals of equal opportunity, diversity and a "colorblind" society are laudable and supported by the vast majority of thinking Americans.

However, over the course of my career, I have watched the implementation of affirmative action amount to the use of discriminatory quotas, set asides, preferences and timetables based on sex and race. This is evidence of the "law of unintended consequences."

We should be reforming comprehensively affirmative action. But we have not been able to do that.

If we have to, we will do this one bill at a time, one amendment at a time.

Race and sex should not matter in college admission, but higher education institutions make it matter by counting, labeling and, ultimately, dividing Americans.

Today's affirmative action is flatly inconsistent with our national commitment to the principle of nondiscrimination. Our founding principles, and I might add, our current laws, require that the government treat all of its citizens equally and without regard to race and sex.

I know that discrimination exists in today's America. There's no denying it. But we cannot attack discrimination with a different style of discrimination. Discrimination in the name of equal treatment is a modern-day oxymoron.

Mr. Chairman, affirmative action did its job in its day.

But the day it became more quotas than opportunity is the day it became part of the problem and not part of the solution.

Equal opportunity has always been at the core of the American spirit. It's time we return it to the core of federal law and practice.

With the understanding of the recent court costs as Rep. CANADY has annotated—the handwriting is on the wall. Tonight let us take this major step toward reform while maintaining affirmative action.

I urge your support of this amendment.

Mr. RIGGS. Mr. Chairman, I yield myself 3 minutes to respond to the last speaker on the other side, my friend and northern California colleague who represents an adjacent district to me.

She spoke a moment ago about the University of California's law school. I would like to refer her to an article in today's newspaper that is very timely to this evening's debate headlined Boalt Minority Admissions Up 30 Percent. I quote from the first paragraph of the article: "In the school's second year of colorblind admissions, offers to black and Hispanic students are up 30 percent, Boalt Hall School of Law announced on Tuesday." It goes on to quote the dean of Boalt Hall as saying, "I think the increase had to do with the efforts made at outreach that we were very welcoming of minority applicants."

Furthermore, I want to put to rest this misinformation regarding the University of California system. First of all, I will go ahead and quote from John Leo's column in U.S. News and World Report of April 27. He says, "There is no white-out, closing of doors, or Caucasian University. In the eight-college University of California system, only two of five students are white. At the University of California at Berkeley, the figure is one in three." Then he goes on to quote in the article the provost of the University of California, Judson King, who says, and I quote right from the article, "In fact, the drive to raise minority numbers at the top two colleges in the system, Berkeley and the University of California at Los Angeles, UCLA, had the effect of creating racial imbalances at the other six. Judson King, provost of the University of California, acknowledged this by saying that the end of preferences was 'evening out' diversity across the entire University of California system of all eight campuses."

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Chairman, I would just like to remind my colleague that what I referred to is one African-American enrolled in Boalt Law School in the fall. One thing. There is a difference between inviting admissions and enrollment, because there are a lot of steps in between. Part of that step is feeling welcome.

Mr. RIGGS. Mr. Chairman, I have to disagree with the gentlewoman. It says, "The school admitted 32 African-Americans for the fall of 1998, almost twice as many as 1997, but less than half the number accepted in 1996, the last class admitted under affirmative action." Looking at how the pendulum now swings back, "The number of Latino students held steady at 19, but Chicano, or Mexican-American students rose 34 percent, to 41." It says, "In 1996, a total of 78 Latino and Chicano students were admitted."

So here is a university that is focusing on outreach, affirmative steps to expand, as I said earlier, the pool of minority applicants. That is why we have included language in our bill suggested by the gentleman from California (Mr. COX) and the gentlewoman from New Jersey (Mrs. ROUKEMA) that very specifically spells out the recommended steps, the affirmative steps that public colleges and universities can do to expand the pool of minority applicants. We strongly encourage them to pursue these outreach efforts as the University of California Law School at Boalt Hall is doing.

□ 1945

Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. CANADY) the leader to end racial preferences and discrimination in Federal Government programs and policies.

Mr. CANADY of Florida. Mr. Chairman, I appreciate the time to discuss this important issue, and I am pleased to rise in support of the amendment offered by the gentleman from California (Mr. RIGGS). This is an important amendment, an amendment which deals with a fundamental question of justice in our society.

In 1871, in the course of the debate over a civil rights bill designed to outlaw segregation in public accommodations, Senator Charles Sumner said this:

Any rule excluding a person on account of his color is an indignity, an insult, and a wrong.

Senator Sumner was right. It is wrong to classify individuals on the basis of race. If our history as Americans teaches us anything, it should teach us that any such practice is inherently pernicious. It is a violation of our fundamental principle as Americans to classify students by race; then to tell some students that they will be admitted to a school because they belong to a preferred group, and to tell other students that they will be denied admission because they belong to a nonpreferred group. Such a policy is discrimination, pure and simple, and it is wrong.

It is wrong for many reasons. It is wrong because it imposes an unfair burden on innocent individuals on account of their race. Students who have worked diligently, including many students who have fought to overcome serious social and economic disadvantages, are denied admission to the school of their choice because other less qualified students gained admission based on a racial preference. Students are excluded not because of any wrong they have done, but as a part of an effort to redress historic wrongs. In the process, unfortunately, the fundamental requirements of justice are forgotten while the dreams and aspirations of the innocent are trampled underfoot.

It is wrong because it sets students up for failure. In the name of providing opportunity, preferential admission policies produce disappointed hopes. Students who could have been successful in less competitive institutions are put in programs for which they are not prepared and in which they do not succeed. The evidence is clear. Dropout rates at competitive universities are in many cases 200 to 300 percent higher among students admitted from preferred groups than among groups admitted from nonpreferred groups.

At the University of California at Berkeley, for example, the undergraduate dropout rate among one preferred group has reached as high as 42 percent. Thus the effort to provide assistance to students through preferential admissions policies often backfires and harms the very students they were supposed to benefit.

The law of unintended consequences has rarely been illustrated more clearly. It is wrong to utilize preferential admissions policies because it reinforces prejudice and discrimination in our society. Whenever public institutions of higher education sort, divide, and classify applicants for admission into racial groups, they send a powerful and perverse message that we should judge one another on the basis of race.

Now that is exactly the wrong message for us to send. Colleges and universities should deal with students as individuals on the basis of their individual qualifications. Students should not be reduced to the status of mere representatives of various racial groups. Schools that employ racial classifications and preferences tell students in the preferred groups that they will be judged by a lower standard and will not be expected to meet the same standard that other students must meet. That sends a message that is corrosive of the respect owed to all students. It is a message that increases divisions and causes untold harm. It is a message that should not be supported by Federal tax dollars.

Now the Members of this House should not be diverted from the truth by the barrage of attacks made against this amendment. There is nothing novel or radical about this amendment. On the contrary, this amendment reaffirms with respect to public universities and colleges the provisions of Title VI of the historic Civil Rights Act of 1964. That act provides in section 601 as follows:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of", and I think it is important for Members to focus on this, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Now that is the right policy; it was the right policy when the Congress adopted it in 1964, and it is the policy that this House should support this evening. Unfortunately, those plain words of the 1964 Civil Rights Act have been ignored in a process of administrative change and in the courts. We need to reaffirm that policy tonight and get back to the fundamental principle of nondiscrimination in this country.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Chairman, how sweet it would be if what my colleague, who just spoke, said were true; that we are a society based on equality of the laws and application of those laws. But the reality is we are not yet there, and if my colleagues do not believe it, just talk to those FBI agents.

Not too long ago, African-Americans who sat down at a fast food restaurant to get some food never got served.

Or talk to the two young ladies in California who went to an ice cream parlor not too long ago and asked for ice cream, and were asked for ID before they would get any service whatsoever because they looked Hispanic.

We are not there yet, and that is the truth about it. It would be nice to base something on merit, but numbers do not give merit. And if my colleagues have seen our public schools and they see where most minorities and poor people are, they will understand why we cannot just base things on merit, because someone can have a 4.0 in some of our inner-city schools and they cannot compete with a 3.5 from some of the suburban schools.

That is where we are today. But worse than that, the amendment does not cure a real problem we have. My wife happens to be a physician, a professor of medicine at a university here, and if she stays there long enough, our three children, who are very young right now, will have an opportunity to go to that university, even if there are other children who grow up and get better grades and get better scores than my children do. Because my wife happens to work at that university, she will get her kids in. Great for me and my wife because now she is a professor there. But my parents and her parents were never professors. They were farm workers. My father was a laborer, my mother was a clerk typist; they could not have said that.

We do not have the justice in this world that allows the children of everyone else to have parents who will be professors who can get their children into school. And as my father used to tell me when he was younger, that sign outside that restaurant that would not let me come in with the dogs, because it said "No Mexicans or dogs allowed," and, by the way, my father was born an American citizen, are not there anymore, but they still affect us all. In the same way that he could not walk into a restaurant not long ago, we cannot still walk into some of those universities.

Defeat this amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Let us not stoop to nonsense in this, the people's House. Affirmative action was put in place to right historical

wrongs, wrongs of sexism and racism. This amendment turns the clock back 30 years. Women and minorities were not underrepresented in colleges because we were stupid. We knew that we were underrepresented because of sexism and racism. And today we are not stupid. We know what this amendment does. It turns the clock back; back to a day that we should all have been quite ashamed of.

We understand this issue; women and minorities, we know. We know why this amendment was put in place, and I urge my colleagues to vote no on this amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise in opposition to the Riggs amendment which attempts to deny the existence of racial and gender history in this country. It overlooks the reality of discrimination and pretends that this country has made more progress than what it has actually experienced.

The fact of the matter is that this amendment is a bold, unadulterated attempt to turn back the clock of inequity before there has been ample opportunity and ample time to experience the benefits of some modicum of affirmative action.

I heard the gentleman earlier speak and talk about dreaming and mentioned Dr. King in his deliberations, and I thought to myself that if Dr. King had been dreaming about this amendment, he would have awakened quickly with a terrible nightmare.

The fact of the matter is that amendments like this one provoked Langston Hughes to ask the question: What happens to a dream deferred? Does it dry up like a raisin in the sun? Fester like a sore and then run?

We cannot allow the dreams to dry up, we cannot allow the clock to be turned back. We must defeat the Riggs amendment, and I urge all of my colleagues to vote against it.

Mr. CLAY. Mr. Chairman, I yield myself 30 seconds just to correct the record.

Mr. RIGGS, the gentleman from California, stated that it was a great increase at 30 percent of blacks and Hispanics at Boalt Law. Let me explain to my colleagues what that increase was. It was an increase of 14 students, black and Hispanics, from 37 to 51, out of a total of 857 students that Boalt admitted.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, if there is a single Member of this House that believes that racial discrimination is nonexistent in America today, then I will vote for the Riggs amendment.

That is what I thought.

Mr. Chairman, I hope and pray that I will live long enough to see racial discrimination ended in this country. Unfortunately, I doubt that I will live that long, and certainly that day has not yet arrived. Until that day has arrived, affirmative action is a necessary limited means of using, of ensuring that equal opportunity is more than a hollow phrase in a high school civics textbook.

The fact is, the Supreme Court has limited affirmative action to be a tool to ensure equal opportunity where discrimination has been proven. That is a vital tool in today's society where the problem is hardly that we have too many minorities in our public and private universities and colleges of America.

Under the Riggs amendment, if Mark Furman had been an admissions director at a major public university, the wrongs of discrimination could not be righted by affirmative action.

In the name of ending affirmative action, the Riggs amendment would institutionalize discrimination; and that, Mr. Chairman, is wrong.

If there is a single Member of this House who believes that minorities living in the third ward of inner-city Houston receive an equal education with children of the privileged families of Highland Park in the Dallas area, then perhaps I could understand why some would vote to end affirmative action.

Mr. Chairman, it is interesting to me that some of the same people who want to use tax dollars to subsidize elite private prep schools would also argue against leveling the playing field of opportunity for children attending low-income public schools. Where is the fairness in that?

Mr. Chairman, until the 1960s, many colleges and universities excluded minorities for one reason and one reason alone: the color of their skin. Where is the fairness in allowing those same colleges to give privileges of legacy to the white children and grandchildren of those former white students, while legacy preferences simply do not exist for minorities? The doors were not open to them.

Mr. Chairman, when Republicans took charge of this House, they appointed dozens and dozens of high school interns from all over America. And know what? Not a single one, not a single one was African-American. And if that is the future vision of equal opportunity under Republican leadership, then I want no part of it.

And finally, it is interesting to me that some of the very people supporting the Riggs amendment, the same people who have voted to cut spending month after month for the enforcement of laws in America against discrimination; where is the fairness in that?

Rather than quoting Dr. Martin Luther King today, I wish some of the proponents of the Riggs amendment would fight every day for the ideal of equal opportunity for which Dr. King lived and died.

Vote no on the Riggs amendment.

Mr. RIGGS. Mr. Chairman I yield myself 1½ minutes to respond to the last speaker.

The gentleman should not be throwing stones in his glass house. If we are going to examine our own internal practices in the United States House of Representatives, perhaps we could look at 40 years of control by the Democratic Party of this institution; how many female Members of Congress currently hold places in the Democratic Party leadership in the House of Representatives, versus the example that we have tried to set for America by advancing female Members in our ranks.

But I want to specifically go to the comment of the gentleman from Texas (Mr. EDWARDS). He said if one person, one person could convince him that affirmative action, racial preferences in colleges admissions is wrong, that he might reconsider and vote for my amendment.

□ 2000

Well, let me suggest to the gentleman from Texas (Mr. EDWARDS) that that one person is none other than the Attorney General of the State of Texas, the top Democrat.

Mr. EDWARDS. Mr. Chairman, would the gentleman yield since he is quoting me?

Mr. RIGGS. Mr. Chairman, I am not going to yield.

The State's top Hispanic elected official. Now, what did the United States 5th Circuit Court of Appeals decide in the Hopwood case? Hopwood v. The University of Texas, I quote: "The 5th circuit ruled that diversity does not justify preferential admissions based on race."

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

Mr. RIGGS. The ruling effectively ended racial preferences in admissions to the University of Texas.

So, what do university leaders do now, according to two articles, the San Antonio Express News and another Texas newspaper furnished to me by our colleague, the gentleman from Texas (Mr. LAMAR SMITH). I quote from the San Antonio newspaper:

> Attorney General Dan Morales spurned a plea Tuesday of last week by State university leaders to fight to restore affirmative action. Morales said that he denied the request by the University of Texas leaders on legal and policy grounds.

Now I quote to the gentleman from Texas (Mr. EDWARDS):

> Racial quotas, set-asides and preferences do not, in my judgment, represent the values and principles which Texas should embrace. I strongly believe that decisions based upon individual merit and qualification are far preferable to decisions based on race or ethnicity.

Mr. Chairman, I yield to the gentleman from Arizona (Mr. HAYWORTH)

for the purposes of engaging in a colloquy.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield? Since the gentleman used my name and misquoted me, will the gentleman yield?

Mr. HAYWORTH. Regular order, Mr. Chairman.

The CHAIRMAN. Regular order has been called for.

The gentleman who has the floor has yielded time to the gentleman from Arizona (Mr. HAYWORTH).

Mr. RIGGS. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. HAYWORTH) for the purposes of engaging in a colloquy with the chairman of the full committee, the gentleman from Pennsylvania (Mr. GOODLING).

Mr. HAYWORTH. Mr. Chairman, I thank the Chairman of the Committee of the Whole House, and I thank the gentleman from California (Mr. RIGGS), my friend and the chairman of the subcommittee; and I am pleased to join my friend, the chairman of the full committee, the gentleman from Pennsylvania (Mr. GOODLING) to discuss how this amendment may have been modified.

Mr. Chairman, it is my understanding the Riggs amendment has been modified to exempt tribal colleges. Could the gentleman confirm that for me?

Mr. GOODLING. Mr. Chairman, if the gentleman will yield, my good friend from Arizona (Mr. HAYWORTH) is correct. The deference to Native American sovereignty in the Riggs amendment was modified to alleviate concerns that Members had raised about tribal colleges and how the amendment would have affected Native American students seeking admission to those colleges. This applies as well to facilities operated by the Bureau of Indian Affairs for Native Americans.

Mr. HAYWORTH. Mr. Chairman, reclaiming my time, I thank the gentleman for his help in making this important change. I know the gentleman realizes how important our constitutional and treaty obligations are to Native Americans, and I believe with the changes that have been made, this amendment now protects the unique nature of tribal colleges, a unique nature reaffirmed in Article I, Section 8 of our Constitution and in subsequent treaties.

Accordingly, I urge adoption of this amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, I would like to make three points in response to the gentleman's comments.

First, he misquoted my statement on the floor. Secondly, what has happened in Texas with the ending of affirmative action is a perfect example of why we should oppose the Riggs amendment. Thirdly, if the gentleman wants to quote minorities on affirmative action, I would point out for the RECORD that the only African-American Member of the House, who is also a Republican, happens to be opposing the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

I rise today in strong opposition to the Riggs amendment. It is an extreme measure designed to deny access to higher education to members of minority groups and women.

The fact of the matter is that education is fundamental to social advancement in our society. The difference in income is tremendous. Those with higher education, men make $16,000 on average more than men without higher education. For women, it is almost double when we compare women with a college education to those without.

Affirmative action has served over the last 20 years to create opportunity for large numbers of African-Americans, Latinos, Asians and women, to gain access to higher education, and in turn, to gain access to economic prosperity. However, the proponents of this amendment would deny that opportunity to these folks in minority groups.

Why? Because they want to propagate to the American public that somehow we have reached a level playing field and that discrimination does not exist. On its face, that is ridiculous, but tonight I would like to look at this so-called level playing field.

I think what we find is that, in fact, it is not level. According to EEO, there have been 80,000 discrimination complaints filed over the last 2 years. According to crime statistics, over 10,000 hate crimes were committed, including 12 murders of members of minority groups. The report of the Glass Ceiling Commission says that women occupy only 3 to 5 percent of senior executive positions, and in Federal procurement, where hundreds of billions of dollars are spent, minorities and women get only about 5 to 7 percent.

Clearly, the playing field is not level. That is why we need affirmative action; that is why it is worth it to address the problems of discrimination that exist today.

Before I conclude, let me say this. I am tired of the patronizing by these folks who come up and say that this will allow unqualified people to gain admission to higher education. The fact of the matter is, even with affirmative action, the criteria for graduation remains unchanged. So anyone that comes in under a program such as this would not be unqualified or would not be compromising the quality of their education.

I hope we address the reality of today's world, and that is that affirmative action is needed because discrimination continues to exist.

Mr. CLAY. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey (Mr. ANDREWS).

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

I would like to just clarify that we are exempting Native American colleges out of a unanimous consent request to modify the amendment to also exempt historically black colleges and universities and Hispanic institutions. I ask unanimous consent to do so.

The CHAIRMAN. The Chair would entertain such requests only from the sponsor of the amendment.

Mr. ANDREWS. Mr. Chairman, I ask unanimous consent to ask the sponsor of the amendment to offer this modification.

The CHAIRMAN. Who yields time?

Mr. RIGGS. Mr. Chairman, I yield myself 40 seconds to respond to several of the previous speakers on the other side.

I just want to say again, from my heart, I believe affirmative action is outdated. Affirmative action, contrary to what several speakers have suggested, is no longer a black and white issue, certainly not in California, the largest, most diverse State in our Union. Because the cultural makeup of America is changing, the argument that affirmative action serves as some sort of reparation for past wrongs, as I think the gentleman from Maryland (Mr. WYNN) and others have suggested tonight, no longer stands. Indeed, often, those most hurt by affirmative action are not white males, but rather Asian women.

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

The gentleman referred to me by name. Mr. Chairman. Will the gentleman yield?

Mr. RIGGS. I do not yield, Mr. Chairman, and I ask for regular order so that I might complete my comments.

I was about to say, those most hurt by affirmative action, as has been the case in California, are not white males, but rather Asian women. Again, I hear the comment made aloud over there, but I do not believe that is justice, and I do not believe that is the kind of society we want in this country.

Mr. Chairman, I yield 6½ minutes to the gentleman from California (Mr. COX), my friend and colleague.

Mr. COX of California. Mr. Chairman, I would like to focus us, if I might, on the text of what is before us because, frankly, I find it difficult to disagree with much of what has been said on the Democratic side. I, too, like my colleagues on the Democratic side, support affirmative action. I certainly want to lead the fight, as we always have here in the Congress, against discrimination.

A higher percentage of Republicans, in fact, than Democrats voted for the historic 1964 Civil Rights Act, and for every landmark civil rights act this Congress has passed. This is a bipartisan effort, and it always has been in our Congress.

Let us take a look at the language that is before us. Section A is titled Prohibition. What is prohibited? "No public institution of higher education shall, in connection with admission to such institution, discriminate against or grant preferential treatment to, any person or group, based in whole or in part, on the race, sex, color, ethnicity or national origin of such person or group."

It also says this: "Affirmative action encouraged," not abolished, not done away with, encouraged. "It is the policy of the United States," reading from the language of the amendment, "1, to expand the applicant pool for college admissions; 2, to encourage college applications by women and minority students; 3, to recruit qualified women and minorities into the applicant pool for college admissions."

If we can focus ourselves on what the amendment actually says and does, I think we can quickly see that this vindicates the very purpose of the Civil Rights Act of 1964, which its chief Democratic sponsors were careful to point out, never, ever, ever was meant to require quotas.

The Democratic floor manager of the Civil Rights Act of 1964 was the Senator from Minnesota, Hubert Humphrey. He told a critic of the legislation, which as I said was supported by more Republicans than Democrats, "If you can find anything in this legislation that would require people to hire on the basis of percentages or quotas, I will start eating the pages of the bill, one after another." Quotas, preferences, set-asides, are the antithesis of what the 1964 Civil Rights Act is all about and what affirmative action is all about.

The use of racial preferences, moreover, is today in America, and has been for years, unconstitutional. The Supreme Court and the Federal courts of appeal have struck them down in virtually every contest, in contracting, in voting rights, and most certainly in education.

Recently three Federal courts of appeal have struck down racial preferences in education, including the 5th Circuit in Hopwood v. Texas, the 4th Circuit in Podberesky v. Kirwan, and the 3d Circuit in Taxman v. Piscataway. In fact, the Taxman case was appealed to the Supreme Court, which was so clearly prepared to strike down these preferences nationwide that supporters of the preferences and set-asides and quotas settled the case rather than risk certain defeat.

All of these decisions had one thing in common: They all followed from the argument that Thurgood Marshall made to the Supreme Court when he argued Brown v. The Board of Education for the NAACP in 1955. He said that "Distinctions by race are so evil," evil, "so arbitrary and so invidious, that a State bound to defend the equal protection of the laws must not invoke them in any public sphere."

Now, many of my colleagues, many people of goodwill, are troubled by racial preferences, set-asides, and gender preferences and set-asides. But they want to know, nonetheless, what would be the practical effects of returning to a policy of affirmative action, the most aggressive possible outreach and recruitment combined with merit-based admissions decisions. Fortunately, we now have some answers to that question.

This amendment is very closely modeled on the California Civil Rights Act, the California Civil Rights Initiative which, in 1996 was passed by a significant majority of voters in the most populous State in our country; and CCRI, the California Civil Rights Initiative, is helping to make admissions at the University of California, which we have discussed here on the floor, color blind.

□ 2015

We have had some discussion and debate on the floor about what has happened in the UC system in the wake of the passage of CCRI. The number of African-American admissions after the passage of CCRI increased 34 percent at the University of California Riverside. The number of Asian-American admissions increased at four University of California campuses. The number of American Indian admissions increased at two University of California campuses. The number of Filipino admissions increased at three University of California campuses. The number of Hispanic admissions increased at two University of California campuses.

This shift of students among the campuses of the University of California is good news because graduation rates are expected to increase significantly. When colleges accept students who are best prepared for the level of academic intensity required at the institution, the probability that the students will graduate increases exponentially. In the University of California system, graduation rates are expected to increase by almost 20 percent for blacks and Hispanics. UCLA Chancellor Albert Carnesale stated in the Orange County Register that UCLA has admitted the academically strongest class in its history. Students in the UC system are now being judged by their qualifications, by their own merits as individuals, not as members of a class.

Mr. Chairman, that is the purpose of this amendment. Let us return to the purpose of affirmative action. Let us redouble our efforts against discrimination and let us vote indeed for this amendment.

Mr. CLAY. Mr. Chairman, I yield 2¼ minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I had a chance like my colleagues to read the amendment and I thank the gentleman from Missouri (Mr. CLAY), my colleague on the Committee on Economic and Educational Opportunities, for yielding me this time.

Mr. Chairman, I find it amazing that in the amendment that takes away the ability to have fairness, we have on page 2 that the gentleman from California quoted that it is the policy of the United States to do these things, but without any teeth in the amendment we might as well just throw it all away, and that is what should be done with this amendment.

Mr. Chairman, as a Member of Congress, I believe it is my duty to make sure that all Americans are served, and I believe that education for everyone is a key to our Nation's continuing success. That is why I rise in strong opposition to the amendment offered by the gentleman from California (Mr. RIGGS).

This amendment is an attack on the efforts to educate everyone in our Nation. In my home State of Texas we have a very diverse population, a population that is becoming more diverse with each generation. We cannot afford to implement a law that makes educating this diverse population more difficult.

I heard tonight the quote from our Attorney General, who is not running for reelection in our State of Texas, saying that should not be done. We are not talking about reparations; we are talking about fairness. We are talking about making sure that the America of the future will have that opportunity for education no matter what color of the skin.

In Texas, we have witnessed a dramatic decline in the number of Hispanic and black admissions to Texas higher education institutions after the Federal court ruling against affirmative action in the Hopwood case. We do not need to see a bleaching of America's higher education institutions. I do not need our college graduates to look like me. I want them to look like America. I do not want them to all be white Anglo-Saxon protestants. I want them to look like Americans.

We must advance educational opportunity, not limit it. If the Riggs amendment only had the second part, then maybe all of us could vote for it because that is the policy of the United States: To educate everyone, no matter where they come from or what their ethnicity.

The Riggs amendment would roll back the progress we are making. Affirmative action needs to be amended but not ended. I remember hearing Dr. King in 1963 say he had a dream. That

dream has not come true. That is why this amendment needs to be defeated.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Guam (Mr. UNDERWOOD).

Mr. UNDERWOOD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong opposition to the amendment proposed by the gentleman from California (Mr. RIGGS) to ban the use of affirmative action in colleges and universities. The purpose of affirmative action is to remedy past discrimination endured by many sectors of our society. Gender, racial, and ethnic discrimination in education is outlawed under the 1964 Civil Rights Act and the 1974 Education Amendments.

Affirmative action is necessary to enforce these laws and to level the playing field for minorities. As an academic administrator and former professor, I know that colleges and universities are in the business of education and consequently in the business of creating opportunities for our young adults.

Institutions of higher education diversify their student populations through affirmative action programs and, in fact, practice affirmative action for a number of purposes, including geographical balance and promoting international scholarship. Affirmative action gives students the opportunity to join their peers in intellectual discussions, in informed and broad debate, and these are the necessary ingredients for institutions of higher education to be fountains of knowledge.

Higher education professionals understand this and use affirmative action to not only extend opportunities but to advance the institutions themselves.

The Riggs amendment would effectively stifle university actions to create campus diversity. Passing the Riggs amendment means that college admissions would be based almost entirely on statistically insignificant differences in test scores, grades, and possibly connections.

As an educator, I believe this proposal is preposterous with the experience our Nation has had, with the marginalization of certain sectors of our society. It is important to distinguish between affirmative action and past discrimination, a distinction which supporters of this amendment blur and avoid. Past discrimination made it impossible for otherwise qualified students to go to universities. Affirmative action gives qualified students a chance to go to a university. One says they could not go, no matter what their abilities were. Affirmative action says if they are qualified, we will give them a chance. It is as simple as that.

Mr. RIGGS. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 24¼ minutes remaining, and the gentleman from Missouri (Mr. CLAY) has 30¾ minutes remaining.

Mr. RIGGS. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GOODLING).

LIMITING DEBATE ON AMENDMENT NO. 79, AND ALL AMENDMENTS THERETO

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that all debate on Amendment No. 79, if offered and all amendments thereto, be limited to 30 minutes, equally divided and controlled by myself, or my designee, and the gentleman from Missouri (Mr. CLAY) or his designee.

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

There was no objection.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for allowing me to speak on this subject. I did not come prepared to speak on this subject, but my life is preparation for this subject.

Mr. Chairman, I decided I would speak out in strong opposition to the Riggs amendment, which is another verification of a dying system. The system is in its death throes. I thought that once it was lethally killed, but now I see that there are many who believe that by turning the clock back, that they may bring a change in America which they were unable to bring before.

Mr. Chairman, I want to share something. My colleagues will not be able to bring that change. They will not be able to bring it by glibly reciting laws one by one. Many have quoted case law, Martin Luther King, Thurgood Marshall, and any number of people and incidents have been quoted.

But, Mr. Chairman, my colleagues will be unable to turn this America back. This America is not the America that they knew or their forefathers knew. This is a different America. This is the America that is proud to have all races, ethnicities and creeds and sexes and everyone participate in this great manner which we have here in this country.

So I want my colleagues to talk as much as they want to talk, speak in rhetorical terms as much as they want to speak, because it does them good. But I want to give my colleagues some reality, some reality therapy. And I will go back to the time when I was a very, very young girl and I want my colleagues to put themselves in my place. Then they will see why I know America will not be that America again.

Mr. Chairman, I wanted to go to college. I could not go to the college of my hometown because I was black. I could not go to high school because I was black. I could not live where I wanted to live because I was black. I could not go to any State university. By the statutes of the State of Florida, I was eliminated from higher education.

But guess what? It did not stop me and it is not going to stop any black person. It is not going to stop any Hispanic person. What my colleagues are saying now, I would say what they are doing is bringing up the insides of the hatreds which their forefathers set there. But it is not going any place. There is no one in this House that is going to allow this to happen, so they may as well fold up their papers, fold their little tents and go home because this is not going to pass.

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

Mr. Chairman, the first thing I want to say is my daughter attends a public elementary school in Northern Virginia where she is a minority. She is a minority as an Anglo at that particular school.

Secondly, I want to say, as I tried to stress earlier, that Anglos, Caucasian Americans are in the minority at the University of California. Two out of five students in the University of California system are white. That makes them minorities. At the University of Berkeley the figure is one in three.

Mr. Chairman, I can honestly say to my colleagues on the other side of the aisle, particularly the gentlewoman from Florida who just spoke, I really do not believe I have a racist bone in my body. And when I hear people talk about turning the clock back, I wonder if those who support race-based college admissions or racial preferences in college admissions, or really believe that that should be the primary if not sole factor considered in admissions, if they realized that they are talking about turning the clock back to before 1954 and the Brown v. Board of Education case, because that is exactly what they are advocating.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I do not think there will be peace in the Middle East or Ireland or in Bosnia in my lifetime, and I do not believe that racism will be dead in the United States of America in my lifetime. I truly believe that.

But I also believe that affirmative action creates a lot of negatives and that it is detrimental just like I think bilingual education is detrimental. And I agree with the gentleman from California (Mr. RIGGS) that the best thing we can offer to all children and to all Americans is an equal opportunity, especially by focusing on kindergarten through 12th grade.

A large portion of our Hispanic population drops out of school. That is

wrong. And what chance do they have at the American dream? A large portion of the African-Americans that attend college are in remedial education, so in both groups the best thing we can do is offer all children the best we can in K through 12. But yet in this country we do not do that good a job, even though we have good teachers and good schools. My wife is one of those. I was one of those.

My dad, who died three years ago, he was a Democrat, and he said:

> Son, my ideal of the American dream is getting a good education and working hard. And if you have those tools, you can pursue happiness. It is not guaranteed. But if you pursue happiness and you have those tools, not every day but most days you can make tomorrow better than it is today.

And I truly believe that.

But I think turning the clock backwards, which many of my colleagues are trying to do, is wrong also. No, we are not to where we want to be, but I think the focus is on equality. Look at our colleges. Most of them are thick and strongly populated by the Asian community because they focus on education at a very young age. I have a large Asian population in my district and they focus on the family. They focus on education from the day that they are in kindergarten and those kids volunteer for every single event that will foster them an opportunity to go to school.

And as I look at our inner cities, what chance do they have at the American dream, Mr. Chairman? Almost none, because of the welfare system that was set up, because of the problems that they had, and the lack of values, and the crime and the drugs, and on and on and on.

So if we really want to help all children, let us do away with affirmative action and I truly believe that. The gentleman knows I worked with him on the committee. And I believe that if we do that, that then we are going to help this country, not hurt it. Is it a perfect country? Absolutely not.

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But most of us, believe it or not, will work with you in that direction.

Mr. CLAY of Missouri. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, affirmative action is not a perfect policy. In an ideal world, we would not need affirmative action; we would not even want it. We would admit everyone, regardless of past practices of discrimination, regardless of the need to promote diversity in higher education, regardless of anything but merit.

We do not live in a perfect world. We live in a society and in an economy that has been shaped by our history. That history includes an economy that was based upon slavery. It includes, at one time, a definition of African-Americans as being worth only a fraction of the value of white Americans. It is a history that includes an official policy of school segregation. It includes a denial of voting rights, of Jim Crow laws.

In my own State of Virginia, it is a history that includes, in our own time, in our lifetimes, an official policy of massive resistance to integrated classrooms.

The closest correlation with academic success of any student is the educational experience of their parents. But what if parents and grandparents and great grandparents were denied access to a decent education as the official policy of the government? Our government denied African-American children access to a decent education. We cannot pretend that did not happen.

While it may not be the fairest way, affirmative action is still probably the most effective way to overcome these official policies of denial of access. Even with the help of affirmative action policies, twice as high a percentage of whites have college degrees as African-Americans, and only 9 percent of Hispanics have college degrees. Prohibiting affirmative action policies, as the Riggs amendment would, only worsens this disparity.

The reverse of affirmative action policies in California and Texas public universities led to a dramatic decrease in the enrollment of African-American students. All of those students that would have been admitted had high grades and were all fully qualified for admittance.

Someday, we will not need affirmative action, but that is not this day. I urge that we oppose this amendment.

Mr. CLAY of Missouri. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, here we go again. The gentleman from California (Mr. RIGGS) and his extreme right-wing friends are attempting to polarize and divide this Nation by pitting citizens of this country one against another.

The gentleman from California would have Members believe that somehow whites are being disadvantaged by affirmative action and African-Americans and Latinos and others are at a great advantage, and they are getting all of the slots in these schools.

Let me give the actual numbers that we have not heard for the University of California. In 1997, out of 44,393 students on nine campuses, guess how many were African-Americans? 1,509. There were 5,685 Latino students out of these 44,393. In 1988, 1,243 are African-American, and 5,294 are Latino students. This is with affirmative action, nine campuses.

He gave some figures, and he told us about UC Riverside, but what he did not tell us was this: that black undergraduate admissions dropped 66 percent in UC Berkeley, 43 percent at UCLA, 46 percent at UC San Diego, and 36 percent at UC Davis. These are the prestigious campuses. Latino undergraduate admissions dropped by 40 percent at UC Berkeley, 33 percent at UCLA, 20 percent at UC San Diego, and 31 percent at UC Davis.

The gentleman from California (Mr. RIGGS) and his supporters mischaracterized the admissions process and its reliance on race. Colleges and universities have always looked at a variety of factors, test scores, race, out-of-classroom experience, percentage achievement, and life challenges to determine who to admit to their institutions.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise today in opposition to this amendment. As a graduate of the University of California at Berkeley, as a woman who never would have had access to a higher education in California's public universities had it not been for affirmative action policies and programs, and who, as a child, upon entering school, was not allowed to attend public schools or public facilities due to segregation, I urge Members to vote no on this amendment. Eliminating affirmative action denies equal opportunities to many of our qualified young people who deserve to have equal access to a college education.

When the University of California Board of Regents considered ending the affirmative action program several years ago, as a member of the legislature, I pleaded with them not to take such a drastic action because of the fact that affirmative action, not quotas, which have been illegal since the Bakke decision, but actually affirmative action was the primary mechanism in place to assure that qualified students of color and women were afforded a public university education.

Many of us, myself included, predicted that minority admissions, which what we have heard today in terms of the decline of the minority admissions, would be very stark, and it is more stark than what we had imagined.

For example, this decline overall of 61 percent, that is outrageous. Only 191 black students were admitted out of a total of 8,034 into the University of California at Berkeley. Medical school admissions are equally alarming. There are no African-American students and very few Latinos entering medical schools at several of our campuses.

It has been shown, time and time again, that a large percentage of persons of color will return to provide medical services for underserved communities. We condemn these underserved communities to remain underserved when we do not provide admission to qualified applicants who have as their goal to provide health care services to these communities.

In 2 years of the Regents' policy, we have begun to see the unraveling of 30 years of progress. Why would we want to subject the rest of the country to this ill-conceived experiment? Conventional wisdom says that as California goes, so goes the rest of the country. I ardently advise my colleagues to learn from the mistakes of my home State and vote no on this amendment.

Mr. Chairman, I rise today in opposition to the Riggs amendment. This amendment will prohibit any institution of higher education that participates in any Higher Education Act program from using race, gender, ethnicity or national origin in its admissions process. Namely, the Riggs amendment seeks to eliminate affirmative action policies throughout the higher education system of this country.

As a graduate of the University of California at Berkeley, as a woman who never would have had access to a higher education at California's public universities had it not been for affirmative action policies and programs, who as a child, upon entering school, was not allowed to attend public schools and public facilities due to segregation, I urge you to vote no on this amendment.

America never has been nor is it a color blind society. Thirty years of affirmative action have helped change the landscape of our universities and colleges. However, it has not changed so much that we are in a position to abandon our efforts. While African-Americans, Latinos, and Native Americans comprise 30% of the college-age population in the U.S., they only comprise 18% of college students. The percentage of women receiving doctorate degrees is 39%. However, in male-dominated fields like mathematics, engineering, and physical science, the percentage falls to 22%, 12% and 12% respectively. The percentages of African-Americans receiving PhDs is 4%; Latinos and Asian Americans with PhDs are 2% and 6% respectively. These figures are dismal and while some progress has been made, now is not the time to impede this progress. It is inconceivable to me that individuals are arguing that we no longer need affirmative action programs. Eliminating affirmative action denies equal opportunities to many of our qualified young people who deserve equal access to a college education.

When the University of California Board of Regents considered ending affirmative action programs several years ago, as a member of the California legislature, I pleaded with them not to take such a drastic action because affirmative action was the primary mechanism in place to insure that qualified students of color and women were afforded a public university education. Many of us, myself included, predicted that minority admissions and enrollment would decline precipitously. Results have been even more stark than we imagined. Let me tell you what has happened in California since the demise of affirmative action.

The Fall 1998 class on the University of California's undergraduate campuses will be the first to have been admitted based on the new Regent's policy. Only 652 out of 3675 African-American, Latino and Native American applicants were offered enrollment for next year—a decline of 61% from last year. A 61% decline in one year. African-American enrollment fell by 66% and Latino enrollment fell by 53%. At UCLA African-American enrollment fell by 43%, while Latino enrollment fell by 33%. One of my constituents was recently included in an article in the San Francisco Chronicle about the effects of the new policy. Jamese LaGrone is a 17-year-old senior at Oakland's Holy Names High School. LaGrone was the junior class president, an athlete, worked on the yearbook and took a number of advanced placement courses. She has a 4.0 grade point average and scored 1390 on the SAT. Clearly, she is a well-rounded teenager who has worked in and out of the classroom to make the grade. I defy anyone to say that this student is not qualified to attend the University of California, Berkeley. Yet, she was rejected by the University of California, Berkeley. She is among 800 African-American, Latino and Native American applicants with 4.0 averages and a median SAT score of 1170 rejected by the University of California, Berkeley.

Medical school admissions are equally alarming. Only 3 Chicanos are registered at the University of California at Davis, one at the University of California at Irvine, and two at the University of California at San Diego. These numbers are only slightly better at the University of California at Los Angeles and the University of California at San Francisco. There is only one Puerto Rican registered in the entire University of California system. There are no African-Americans among the freshman classes of medical school at either the University of California at San Diego or the University of California at Irvine. These admission numbers have implications for the delivery of health care services to underserved communities. It has been shown time and time again, that it is primarily persons of color who will return to provide medical services for these communities. We condemn these underserved communities to remain underserved when we do not provide admission to potential, qualified applicants who have as their goal to provide health care services to these communities.

Only one year after the Regents decision to ban all affirmative action policies, the acceptance rate at Boalt Hall law school at Berkeley dropped 81%; at UCLA, the rate fell 80%. The message being sent to students of color is that they are not welcomed in the University of California system, so that even those few offered admission choose to go elsewhere. For example, no African-American students who received admissions to Boalt Hall chose to attend; only 7 of the Latino students who received admission elected to attend; the two Native American students accepted also declined admission.

In two years of the Regent's policy, we have begun to see the unraveling of thirty years of progress. Why would we want to subject the rest of the country to this ill-conceived experiment?

I have heard my colleagues on so many occasions talk about how the Department of Education should have less influence on education policy. Yet, here we are on the verge of putting the Department of Education in the business of dictating admission policy for our higher education community. Sixty-two presidents of the country's most prestigious universities have come out in opposition to the elimination of affirmative action policies. These presidents have attested to the importance of diversity in fostering a rich educational environment and how affirmative action policies play a key role in achieving this diversity. This amendment directly contradicts what the majority of educators throughout the country have said that they need. We cannot tie their hands on how they can achieve their mission.

I cannot stress enough what a devastating effect and far reaching implications the Riggs amendment will have for the future of this country. It will only further widen the disparities in education and income between men and women, and whites and people of color.

I cannot believe that Members of this House want to see the resegregation of America's colleges and universities. I urge a no vote on this measure to ensure that those qualified students, regardless of their race or gender, have an equal opportunity to pursue their dreams.

Conventional wisdom says that as California goes, so goes the rest of the country. I ardently advise my colleagues to learn from the mistakes of my home state. I hope that in this case, that conventional wisdom is wrong. I yield back the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the Riggs amendment, and I do so after numerous conversations with institutions of higher learning in my district.

There are a lot of folks around that complain regularly that the Federal Government, specifically the Department of Education, exercises too much control over the education of our children. They claim that they are for local control in autonomy and education.

My friends, this amendment promotes expanded authority for the Federal Government and takes away decision-making power from States and localities, as read by those who are responsible for education in my district.

My office has been in discussion with university presidents from across my district. They represent a broad spectrum of schools, small, large, public, and private, those who are affected by this amendment, and those who are not immediately affected.

In spite of the differences in their schools, though, all of the university presidents in my district that we spoke with were unified in their opposition to this amendment. They are worried about this latest potential intrusion by the Federal Government in instructing schools on ways in which they must conduct their business. They foresee an impact far more draconian and extreme than Proposition 209 and the Hopwood decision.

The last thing that these folks and their universities that have done such a fine job educating young people of west Texas want is more intrusion and regulation from the Federal Government.

I urge my colleagues to listen to these voices, to vote no on the Riggs amendment, and help prevent a broad-based, far-reaching, intrusive Federal prohibition that universities do not support and students do not want.

Mr. RIGGS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I just again want to, for the benefit of all my colleagues, put matters in perspective in terms of what is taking place in the University of California system.

The latest systemwide data released by the University of California shows that this fall's freshman class will contain 675 fewer non-Asian minority students spread over the entire eight campuses. So the new freshman admissions are 15.4 percent non-Asian minority, interesting that they actually exclude Asians from the minority classification, compared with 17.6 percent for the 1997 freshman class. That is a decline of 2.2 percentage points.

The drop may be even smaller since the university does not know the ethnicity of the huge number of admitted students, 6,346, who declined to list their ethnicity on application forms this year.

So I want to suggest to my colleagues we have to treat these numbers that people are throwing around with a little bit of caution. The decline of black and Hispanic freshman enrollment in the 2 percent range is a lot smaller than many people predicted, a lot smaller, of course, than those who are quite up in arms, even hysterical over the passage and implementation of Proposition 209.

As I said earlier, what we have seen now is a spreading effect, more minority students at the other campuses in the University of California system, to the point where, as I quoted earlier, Judson King, the provost of the University of California, is acknowledging that we are actually achieving more diversity, better balance by the end of preferences in the University of California system.

Mr. Chairman, I yield 2½ minutes to the gentleman form California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I think that we are all talking about the fact that we want to address the fact that everyone who is disadvantaged should have access to their educational opportunities.

California is a very progressive State. We have been way ahead of the curve so many times in America that now people have just basically expected us to do this. I would ask that we talk about working together on this issue.

Californians have recognized that we are not talking about turning the clock back. We are talking about moving forward. The fact is, the days of trying to justify fighting prejudice by being prejudiced is a thing of the past. The assumption that there are only certain groups, by the color of their skin or their gender, who are disadvantaged when it comes to educational opportunities is an antiquated concept.

Mr. Chairman, if you walked in my neighborhood, a community in south San Diego, along the Mexican border called Imperial Beach, we could walk down, and I could show you where there was a Latino, an African-American, a Pan Asian, an Anglo. You could not tell me that this person's children are advantaged, this person's children are disadvantaged.

The fact is that the great disadvantages in our society today follow more economic-social lines than any other single denomination; and that happens to have a large, large impact to those who are people of color. I agree with that. I think there are opportunities for us to have affirmative action.

In my county, we had affirmative action, and it was declared constitutional because we did not have quotas and set-asides. We did not judge men and women based on their gender or people based on the color of their skin, but we did address the issue.

There are a lot of people that are disadvantaged and need help. That does not necessarily always follow based on the color of someone's skin or somebody's gender.

Mr. Chairman, I think that we can work together on this, but we need to leave the old race-baiting approach and the gender baiting. We do not fight racism by being a racist. We are not going to end sexism by being sexist.

Mr. Chairman, as somebody who has worked on affirmative action for over 20 years, we can do better. We do not need to deny a Filipino girl in San Diego access to the UC system because there happen to be so many more Asian Americans who qualify.

I have three daughters and two sons who are alive. I hope to God that some day in the next century we can stand up and say that our daughters and our sons, no matter what their gender, no matter what their race, no matter their economic opportunities, will have equal rights under the Government of the United States.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in strong opposition to the Riggs amendment. This amendment would forbid public colleges and universities from considering race, color, national origin, ethnicity, or gender at all in the admission of students.

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Now, I oppose quotas and reverse discrimination, but this amendment will not eliminate quotas or reverse discrimination because they are already illegal. And that is the point. This amendment would eliminate diversity in our Nation's public colleges and universities.

We have seen what happens when affirmative action in higher education is eliminated. Minority enrollment plummets, plain and simple. For example, since the Hopwood case and the passage of Proposition 209, the number of racial minorities admitted to public universities in Texas and California has decreased dramatically.

At the University of Texas Law School, admissions of Hispanic students is down 64 percent. Admission of African-American students is down 88 percent. And when minority admissions decrease so dramatically, there are so few minority students that those who are admitted do not choose to attend. At Boalt Law School last year, not one of the African-Americans admitted elected to attend.

Even minority applications are plummeting. Last year minority applications at the University of California at San Francisco Medical School fell from 722 to 493. Berkeley Chancellor Robert Berdahl has said, "We have got to take this seriously. Our future as a university and the future of the State of California is at stake."

The Association of American Medical Colleges has said of this amendment: "HMOs and other large health care organizations are calling for greater numbers of physicians who reflect the diversity of the patient populations they serve. Today, black, Hispanic, and Native American doctors are a crucial source of care for the Nation's burgeoning minority communities as well as its poor populations. Ultimately this legislation will undermine decades of progress our Nation has made in educating underrepresented minorities for all trades and professions."

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the distinguished minority whip.

Mr. BONIOR. Mr. Chairman, America has always been about opportunity: the opportunity to work hard, the opportunity to get ahead, and the opportunity to achieve everything that our talent and our toil will allow. And in today's competitive economy, the key to that opportunity is a good education.

That is what we are talking about this evening, ensuring that all Americans have an opportunity for a good education, even those who have traditionally been denied access to our colleges and universities.

Most colleges and universities seek out students of various talents, perspectives, and backgrounds precisely because that diversity makes them stronger. They admit students on the basis of many subjective criteria. Some students are admitted because they are top scholars, some because they are good athletes, some because they are children of wealthy alumni, some because they are in-State students, some

because they help create geographic diversity.

Factoring in an applicant's race and gender in the admissions process is no different except its purpose, ensuring equal opportunity for all Americans, is a whole lot more important than recruiting a winning football team or boosting donations of alumni. Student bodies that include men and women of all backgrounds help produce the diversity that we need in America.

Now, there are those who argue that affirmative action is no longer necessary. And to them I say, let us look again, once again this evening, at the evidence.

One year after the University of California prohibited all affirmative action programs, enrollment for African-Americans dropped 66 percent, Hispanic enrollment dropped 53 percent. The end of affirmative action at the University of Texas Law School caused Hispanic admissions to drop 64 percent and African-American admissions to drop and to fall by 88 percent.

So what do these statistics tell us? That not all Americans are getting equal access to educational opportunities.

Affirmative action is an effective tool to remedy this. The Riggs amendment would take this tool away from us. It would undermine opportunity. I strongly urge, Mr. Chairman, I strongly urge my colleagues to oppose it.

Mr. RIGGS. Mr. Chairman, one more inquiry as to how much time is remaining on both sides.

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 16¼ minutes; and the gentleman from Missouri (Mr. CLAY) has 16½ minutes remaining.

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

I want to say to my colleagues that we have to look at the results of affirmative action as has been practiced by many institutions of higher learning around the country. That is why we have gotten the court ruling in the Hopwood case; that is why the courts upheld the legality and constitutionality of the California civil rights initiative.

In fact, the Ninth Circuit Federal Court of Appeals said in upholding Prop. 29 in California, and I quote, "Where a State denies someone a job, an education, or a seat on the bus because of her race or gender, the injury to that individual is clear. The person who wants to work, study, or ride but cannot because she is black or a woman is denied equal protection" under the law. "Where, as here," and referring to the case of Proposition 209 in California, "a State prohibits race or gender preferences at any level of government, the injury to any specific individual is utterly inscrutable."

Inscrutable. That is the word of the appellate court.

No one contends individuals have a constitutional right to preferential treatment solely on the basis of their race or gender. I will turn the earlier argument of the gentleman from Texas (Mr. EDWARDS) on its ear. Is there anyone on the other side of the aisle who is willing to stand up tonight, in fact, I think this is the argument the gentleman from California (Mr. COX) made as well, and contend that any individual American citizen has a constitutional right to preferential treatment solely on the basis of their race or gender? If so, I will hear from them now. I will yield to them.

The court is clear. What has evolved is an unfair system.

The court goes on to say quite the contrary. "No individual citizen has that constitutional right to preferential treatment." And they go on to conclude and say, "What then is the personal injury that members of a group suffer when they cannot seek preferential treatment on the basis of their race or gender?"

So that, I think, is the crux of the legal argument. And I guess that is as good a segue as any, Mr. Chairman, to introducing my good friend and fellow Californian.

Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, what do we say, what do we say to the young Asian-American woman who received a letter in 1989 from the University of California Boalt Hall Law School. I saw the letter. It said that she was on the waiting list, and there was a blank, and the word "Asian" was written in; that she was on the lower third of the "Asian" waiting list. What do we say to an individual who is told that her race is going to determine whether she has a good, better, or worse chance of getting into the law school of her State, the University of California? (The University agreed to stop this practice.)

People of good will are on both sides of this issue tonight, Mr. Chairman. I recognize that. Every intelligent person does. And I cannot dispute that affirmative action, as practiced in this country, has done good for many people. I just cannot accept the price of the harm it does to those who are kept out. And that is what happens. We cannot logically include somebody, giving preference on the basis of their race, without saying that somebody else is excluded because they were not of that race.

The University of California has been the subject of a lot of the debate tonight. Statistics about the test scores there were reported in the Wall Street Journal in April of this year. They say that the SAT for math was 750 for Asian students; for white students, 690; for Hispanic, 560; and for black, 510. What do we say to an Asian American who scores 740 on the SAT math and is told she cannot get into Berkeley, but that if her race were white, she could?

The danger is, once the State begins to use race, it is very, very hard to do it right, to do it in a fair way, to do it in a constitutional way.

I want to tell my colleagues something that happened to me personally. First of all, some background: Asians now are about 38 percent of those admitted to Berkeley, 41 percent of those admitted to UCLA. They are the largest ethnic group at those two campuses. And if we look at people as members of groups, we could say, well, that is high enough. That group's percentage is high enough. But that is just not fair to the individual who is told that we have reached the limit of "your type."

I had this personal experience, Mr. Chairman. When I was a member of the California State Senate, a high administration official of the University of California came to see me in my office. And he said, we need affirmative action at Berkeley because, otherwise, "there would be nothing but Asians there." He said that to me, in my office. I said to him, what is wrong with that? They would be Americans. Not Asian Americans, not Caucasian Americans, not African-Americans. Americans. But this university official was concerned that there would be too many of one particular race at the University of California.

When California abolished the use of race in the admissions policy at the University of California, the group that increased in admissions was Asian. At the law school at UCLA, the numbers of Asians admitted grew 81 percent.

During the time when affirmative action was practiced (and I know this because I interrogated the administration officials at the University of California) people of higher income were admitted over Asian-Americans of lower income. There was no affirmative action for Vietnamese, though they came to this country with nothing. No affirmative action for them.

And the university actually argued that because they would admit students of lower income if they abolished affirmative action, they would have lower academic performance, because academic performance was correlated with income. That, to me, is so wrong, to say to somebody whose income is lower, that nevertheless they are just the wrong race, so they cannot come in.

Mr. Chairman, I had a distinct honor to be law clerk to Justice White in 1978, when *Bakke* was decided. And I read every word of the civil rights history of the 1964 Act, and I read the briefs in the case. And I will never forget that the Sons of Italy and B'nai Brith submitted briefs in that case saying it is not just a generic Caucasian that we would be taking places from, it

is us; in the two instances I gave, persons whose interests were represented by B'nai Brith and the Sons of Italy would be losing places in the class admitted to medical school.

Four justices in that case ruled that there was no difference to the individual whether they are told they cannot get in because there is an absolute quota, or they cannot get in because they do not have the racial plus factor of those who were admitted. Two of those four were Justice Stevens and Justice Stewart, nobody's far right wing members of the Supreme Court.

The numbers at the University of California are not as good as we would all like. I admit that. But the University of California has not tried the alternative. What they should have done, from the start, is consider people who are willing to work in low-income neighborhoods upon graduation. Let us admit people to medical school who are willing to go into the neighborhoods that need them. Let us admit students taking into account a promise to do that; not on the basis of their race.

We should consider income. We should consider whether your parents graduated from college. We should consider how many from your high school went on to college. The University of California never tried those factors. They used race because it was the most convenient; and, hence, the numbers now are as bad as they are. I suggest that it is time to try the alternatives, because using race has led to unfairness to people in my State.

□ 2100

I conclude with this. This is a matter of shame to me that my State kept Chinese from owning property at the beginning of this century; told Chinese they could not even litigate in civil courts up until the Second World War. They took Japanese Americans and said, "Because you are Japanese, you will be deported from the State of California; your property and business will be seized." It is just not right for my State to tell them now, "You are on the Asian waiting list."

Mr. Chairman, we cannot do good by doing bad. Let us do good and consider people as individuals, not as members of a class.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Chairman, I mourn for the Chinese who were denied the right to own property. I mourn for the Japanese who were put in concentration camps. But I also mourn much more for those descendants of African slaves who were descendants of people who were not allowed to own property for 232 years. They were not even recognized in marriage. They could not get married. Laws were made to prohibit the teaching of reading to African-Americans.

All those injustices do not matter, I suppose. If we start with a set of wrong assumptions, we can make a profound argument about simple-minded matters. But let us lay this aside for a moment and not discuss the need for affirmative action as a matter of justice that is long overdue. Let us just talk about how do we deal with the present situation and some of the things the previous speaker said.

Why do we not let all high school graduates who qualify to go to college go to college? Why do we not open up the slots. Why do we not have open admission and have the Federal Government have a program where we expand the Pell grants and we expand all the Federal aid to the point where open admission would mean that every student graduating from high school who can reach a threshold can go on to college.

Because the facts are that those students who have the lower SAT scores in the minority community, once they go to college, the results, the studies that are done about results in the medical schools and results in the law schools, they get the same results. They come out at the same level as everybody else.

If we want an America which is meeting its needs for a large number of educated professional people, and we are missing the boat here, we have no vision as to what is coming. We have a great shortage of teachers right now. We do not seem to recognize what that means. We have a great shortage of information technology workers.

Practically every profession is facing the shortage just to meet our domestic needs. Yet we are the indispensable nation that offers all kinds of assistance to the rest of the world, and our leadership in the world will have a lot to do with our prosperity; and we do not have the educated people in the hopper, in the pipeline, to do that.

This amendment is going backwards. It is all wrong.

The CHAIRMAN. The Chair would advise, the gentleman from Missouri (Mr. CLAY) has 14½ minutes remaining, and the gentleman from California (Mr. RIGGS) has 7¼ minutes remaining.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding the time.

I rise in opposition to the Riggs amendment. The amendment, although it has been altered, is still extreme. It is going to create a two-tiered system at our Nation's institutions of higher education. Our private colleges and universities can continue their affirmative action programs, creating diverse and inclusive environments on their campuses nationwide. But students in public colleges and universities will be deprived of all of those benefits and enrichment that diversity brings to the educational experience.

While the Riggs amendment would encourage the recruitment of women and minority students, there is little indication that this language would be implemented. Women and minorities have been historically underrepresented in many critical fields: science, engineering, technology. I could cite the statistics to indicate that among technology jobs computer programming attracts the most women, and that is 29 percent of female. Only 12 percent of physics doctorates and 22 percent of mathematics doctorates are awarded to women. For minorities, it's an even more bleak picture.

Two-thirds of the new entrants into the workforce in the year 2000 are going to be women and minorities. Let us train them. Let us give them the opportunity. Let us embellish affirmative action in terms of what our Nation stands for. The battle for equal rights is not yet won. I urge a "no" on the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. FATTAH. Mr. Chairman, let me thank the gentleman for yielding. And let me also concur that there are, I am sure, well-meaning people on both sides of this debate. But I think that this amendment would move this country in the wrong direction.

Harvard University was founded for the sons of landowners, white male landowners, and sons of the clergy. And when we look at the circumstances of higher education in this country and we know that the greatest predictor whether a kid would go to college is the education of one's parents, and then we already have heard the history of how certain groups have been excluded, then we know by mere fact that therefore others would be in a deficit position in order to go forward and matriculate at a higher education institution.

We know that income is a secondary factor, and we know where minority groups fall in the income distribution scale in this country. We also know that the third factor is the K-to-12 education. And everywhere we look in this country, we will see that minority students are in underfunded public education systems that disproportionately put them in a situation where they cannot compete adequately in some of these standardized tests.

So if we look at those three factors that on their face are nonracial in their characteristics, they have in fact an impact. The other thing that is important is that the Riggs amendment, my colleague from the Committee on Education and the Workforce, his amendment would allow a university like Penn State, where I served on the board of trustees, or Temple University, to admit, as many do now, foreign students based on preferences and all

kinds of other considerations, giving them points in the admissions process, giving them headway over and above native-born American students who come from groups of Americans who have been left out of the picture.

Now, here in this Capitol, we have some 300 pictures, artistic pieces, renderings about our history. Not one picture is of an African-American or a Hispanic American, a Latino. Is the kind of America we want to paint where we lock other people out? Do we want to return to the day when in law school and medical school it is all males and no females?

What does that suggest for this country as we would go forward into the 21st century?

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Attack. Attack. Attack. Mr. Chairman, I rise before my colleagues today to express my opposition to this amendment.

In fact, I am sick and tired of being sick and tired. Why is it that minorities in this country are constantly on attack? One year after the passage of Proposition 209, California's most select universities admit 50 percent fewer African-Americans and Latin American applicants? Why is it that every time we talk about affirmative action in education we are talking about race?

What about the football player who gets affirmative action or the alumnus because of the family's connection? How about the banker who has influence with the admissions board? This amendment is a blatant attempt to keep minorities out of our colleges and universities so that they will never have the opportunity to be successful.

Affirmative action has never been about favoritism. It is merely one tool to make sure that everybody in this country has an opportunity for education.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman for yielding me the time.

I rise in strong opposition to this amendment. I am very sorry that this amendment is before us today. It is really very divisive. It moves the country in the wrong direction. I do not think we want to go back to the good old days, which were not so good to begin with.

I am really amazed because our Republican colleagues have traditionally said that the Federal Government ought not to intrude in the matter of education as far as the States go, and here we are mandating, intruding, and saying that the States cannot even have the ability to decide for themselves what is best for their universities. It makes no sense to me.

If we do not believe that the Federal Government should come in with a sledgehammer, then why are we mandating this on States? The States are intelligent enough. They know what kind of programs they want and what kind of programs are best for their States. We ought to leave it alone.

I was educated at public universities in my State. I think we do very, very well. I am not interested in theories. In the real world, this country moves forward when people of goodwill work together. We need to stop dividing people. We need to bring people together. People are benefited when they go to school with other types of people. That is best for the society as a whole.

It is good for children to get to know other children, not only children of the same background, but children of different backgrounds. And what the Riggs amendment would do is it would resegregate public universities in this country. I do not see how that is good for America.

I think it is good that we have all types of people getting to know each other so we can have a brighter future. It does not make sense. Private colleges, as many of our colleagues have stated, could continue to be diversified, whereas public universities would have a stranglehold.

Let us not dictate to the States and tell them what they ought to do or what is best for them. We do not need Big Brother. The States know what is best for themselves. This amendment has constantly been worked and reworked and reworked and reworked, which means there has been a terrible problem with it.

I wish it would be withdrawn. We have seen what happened in California and in Texas with Proposition 209. This slides the country backwards. Let us move forward and reject the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the distinguished minority leader, the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I rise in opposition to this amendment, and I hope that it will be defeated.

This amendment would travel us down the retrograde road of racial divisiveness by offering legislation that would deny educational opportunity to minorities and women. The Members who support this amendment wanted America to end the era of diversity and integration in our public institutions of higher learning.

The Riggs amendment would destroy the years of effort and commitment that this country has made to expand educational opportunity. All the progress that we have made, and it is considerable, could be lost and reversed with this one vote.

The Riggs amendment is described by its proponents as an effort to eliminate preferential treatment and discrimination in admissions in public institutions that receive funding under the Higher Education Act. But make no mistake, the Riggs amendment is not about eliminating preferences and not about eliminating discrimination. It is about limiting the ability of public institutions to make their own choices about how to reach out to qualified students in their application process.

Like its model, California's Proposition 209, supporters of this amendment know that the majority of American people support affirmative action remedies that seek to be inclusive and remedy past discrimination, that aim to increase the attendance of minorities and women at our universities and colleges. They use terms such as "preferential treatment" and "reverse discrimination" in order to obscure what is really at stake here.

I know that the American people support affirmative action. I have heard stories of countless individuals who have been benefited, who have been helped, who have been given an opportunity that they would not have had but for these programs. These are the success stories of affirmative action which we have not talked enough about.

These people who had this chance overcame odds, surmounted the obstacles of discrimination, and they were allowed to fulfill their hopes and realize their potential, which they would not have been able to do without this help.

The Riggs amendment will create a crisis, educational inequality on a scale which we thought we had left behind us when we passed the civil rights laws in this country. We need only to look at California's experience to know what happened when this new policy came into being.

Under Proposition 209, the California State system has experienced the most significant drop in minority enrollment in its freshman classes in the past 2 decades. Proposition 209 has had such a devastating impact on educational opportunity for minorities in California, it has caused even longtime opponents of affirmative action to rethink their position.

I remember what it was like in America before we had this kind of affirmative action that really brought people into opportunity. I graduated from the University of Michigan Law School in 1965. And in my class, there was one, one, African-American student. In fact, he was the only African-American in the entire law school when I attended law school at the University of Michigan.

That classmate was Harry Edwards, who is now Chief Judge Edwards of the U.S. Circuit Court of Appeals for the District of Columbia.

□ 2115

Last year in the entering class of the University of Michigan Law School, there were 25 African-Americans, and

22 percent of the entering class was comprised of students of color. Look how far we have come. Do we want to go back to 1965 when there was one African-American student in the entire law school at the University of Michigan Law School? Or do we want to continue what has been happening today because of affirmative action?

I think I know the answer. I think I know the best answer for America and for our people. Let us not go back into the past, which was not successful. Let us stay with the present. Let us keep affirmative action. Let us keep America the land of opportunity. Vote against the Riggs amendment.

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RIGGS. Mr. Chairman, just confirming that the gentleman from Missouri (Mr. CLAY) has the right to close debate.

The CHAIRMAN. As a member of the reporting committee opposing change in the committee position, the gentleman from Missouri (Mr. CLAY) will have the right to close.

Mr. RIGGS. I would also like to confirm how much time is remaining on both sides.

The CHAIRMAN. The gentleman from California (Mr. RIGGS) has 7¼ minutes remaining and the gentleman from Missouri (Mr. CLAY) has 5½ minutes remaining.

Mr. RIGGS. Mr. Chairman, I yield myself 3 minutes. I just want to say, let us not get too hysterical about this debate. I go back for the third time in the course now of about 2 hours, I want to quote Judson King, provost of the University of California, who acknowledged that the passage and the implementation of Proposition 209 has evened out diversity across the University of California system, all eight campuses, or nine if we include the University of California at San Francisco Medical School. John Leo, who quoted Mr. King, goes on to say in this commentary, "Though there is no real shortage of hysterical commentary about the end of preferences," and we have certainly heard and seen that here tonight, Mr. Chairman, "very few people have bothered to talk about the strong positive aspects. For one thing, a great burden has been lifted from the shoulders of the University of California's black and Hispanic students. No longer can anybody patronize them or stigmatize them as unfit for their campuses. From now on, all students in the system make it solely on the basis of brains and effort and everybody knows it. The end of preferences will help make campuses far more open and honest places. The deep secrecy that surrounds the campus culture of racial preferences," whether we are talking about the University of California, the University of Texas, the University of Michigan or for that matter any other public college or university that engages in racial preferences in making their admissions, setting their policies and in making their admissions decisions today, "has compromised many officials and led to much deceit and outright lawbreaking. Martin Trow, a Berkeley professor, spoke at a recent academic convention about all the coverups and lying that preferences have spawned, citing as one minor example an Iranian student at Berkeley who said he had been encouraged to list himself as Hispanic in order to qualify for a preference." You have academics themselves, Professor Trow at Berkeley, Professor Cohen at Michigan speaking up and saying this is deeply wrong. It is, as I said earlier, anti-American.

Mr. Chairman, the other thing I want to say to the speakers on the other side of the aisle, they seem to be referring, if I understand their argument, to the continued existence of racial prejudice in our society as a justification for racial preferences. I find that argument utterly baffling. I cannot follow the reasoning there, because I do not understand how State-based, State-enforced discrimination based on race, which is exactly what my amendment is intended to ferret out and end, I do not understand how that State-based, State-enforced discrimination can help end discrimination and racism. I do not think the other side has addressed that argument tonight.

The evidence is unmistakably clear. After 25 years of preference, racial preferences continue to be a powerful source of racism and racial resentment in our society. As I said just a moment ago, they have poisoned racial relations at universities and schools across this country. It is time for us to admit to ourselves, to our fellow Americans that race conscious State action is not a cure for racism. It is simply a reinforcement of it.

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

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I serve on the Committee on Education and the Workforce. I strongly oppose the Riggs amendment. The elimination of affirmative action programs in California had a devastating effect on new minority student enrollment in the University of California's graduate and professional school programs in 1997. Equally devastating was the effect on the enrollment of the two flagship universities in my own State of Texas. Affirmative action policies have enabled colleges and universities to champion access and equal opportunity for a postsecondary experience for a generation of students. Achieving diversity on college campuses does not require quotas, nor does diversity warrant admission of unqualified applicants. However, the diversity colleges seek does require that colleges and universities continue to be able to reach out and make a conscious effort to build healthy and diverse learning environments appropriate for their missions and communities.

The Nation cannot afford a citizenry unequipped to participate in the educational, social, political, cultural and economical processes of society. Until equity for all students is reached, these opportunities created through affirmative action must continue. It is vital that the reauthorization of the Higher Education Act ensure access to postsecondary education for qualified applicants. The Riggs amendment would effectively shut the doors of higher education to large numbers of minority students.

In conclusion, Mr. Chairman, I urge all my colleagues to vote no on the Riggs amendment.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. I thank the gentleman for yielding me this time.

Mr. Chairman, I am in complete opposition to the Riggs amendment that brings affirmative action to a screeching halt in the admission offices in colleges and universities across this Nation. Although the language of this amendment sounds bland and nonthreatening, nevertheless the intent of this amendment is to end affirmative action, those actions which would overcome past discrimination. The sponsors of this amendment talk about affirmative action as if they are quotas, which is not the case. The goal we are trying to reach is equality of opportunity, not based on race. How can we reach this goal when we fail to give opportunities to women and minorities to overcome past discrimination?

I submit, Mr. Chairman, that in order to achieve equality, we must not quit our past endeavors. California and Texas both enacted laws that prohibit universities and colleges from using affirmative action as a legal remedy in cases of discrimination, to use affirmative action to increase campus diversity. Mr. Chairman, this amendment is counterproductive. It puts us further away from the goal we are trying to achieve, equality. I urge my colleagues to oppose this amendment, because discrimination does indeed exist.

Mr. RIGGS. Mr. Chairman, I yield myself 15 seconds, to simply say that as the gentlewoman herself has said, we must guarantee equality of opportunity in our society. But we cannot guarantee equality of results.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. ARMEY), the majority leader, for the purposes of closing debate on our

side. No one has worked harder to create educational opportunity for minority children in this country than the majority leader, and he shares my concern, our concern, that we as a country cannot afford to lose another generation of urban school children.

The CHAIRMAN. The gentleman from Texas is recognized for 4 minutes.

Mr. ARMEY. I thank the gentleman for yielding me this time. Mr. Chairman, let me begin by appreciating the gentleman from California (Mr. RIGGS) for bringing this amendment to the floor. It is not a debate that most of us would want to join. It is a difficult subject, there is no doubt about it, but yet it is so important. To bring this subject out as the gentleman has done leaves him open to be easily misunderstood, even more easily misjudged and frankly more likely to be mischaracterized. His courage and commitment to fairness is to be appreciated.

This has been an unusual opportunity for me. In these days I rarely get to listen to an entire debate on any subject. But I did get to hear this whole debate. It is important to me. You see, I do not believe there is anything that we can do as a culture of civilization that can be as important as educating our children. In that task, I believe there is no institution that is more important than the university, because the university gives us our final product and gives us all our inputs as it trains our teachers.

Indeed, I labored in the university for 20 years, so I retain a great interest in it. Of all the things that I heard in this debate this evening, the thing that I found most unfair were the characterizations of American universities made by those in opposition of this amendment. I repeatedly heard people say, "Oh, we can't do this, because universities will not be fair in their admissions policies." Do we think so little of our universities? Do we think so little of our professors? Do we think so little of our admissions officers that we think they will not be fair? Without this, it was argued, the universities will not pursue a policy of diversity.

Well, I have been there. The universities invented diversity. They are committed to it intellectually and emotionally, and they are not going to walk away from it. I also heard a very discouraging assessment of this. How little is our imagination? How little is our courage? We have seen some testimony. Yes, there is progress. There is change. Things are better in America than they were. We have got shame, we have got embarrassment about the way we have treated one another in this Nation in the past, and things are changing.

Now I think the time has come in this great Nation, can we dare, can we dare to move forward? I think this is what the gentleman from California (Mr. RIGGS) is asking us to address. It is not a retrograde road. Do you have so little faith in the goodness of the American people as exhibited in the discussions of your lack of faith in American universities that you believe we will go back to the days of Jim Crow? Or maybe, maybe, America is a Nation that has grown enough in its goodness that the road that we are about to take may be a better road?

The question I think that the gentleman from California is asking us to address, is America a Nation where we believe it is right and a Nation that is capable of living by the idea that every person, every person in this Nation, deserves to be treated the same as everybody else?

One of my great privileges as a Member of Congress is to assist young people in obtaining appointments to the military academies. That is often misunderstood. I can appoint no one, but I can nominate. Repeatedly throughout that process to all the young men and women who come to me, I emphasize that I want them to know, and they need to know that if they get an appointment, they got it on their merits. There is no politics involved in this, no preference, nothing special. Why did they need to know that? Because it is a daunting task for a young person. They need to go to that task knowing that they will be respected by the others at the academy and that they have already proven in the selection process they have the ability and they can therefore go with the courage and the confidence they can succeed.

Does not every young person in America that gains admission to any college, any university, any program deserve the right to know that not he nor anyone else can doubt that he did it on the basis of their own merit, their own intelligence, their own accomplishment? Or must they live with the shadow of worry and doubt that even if they themselves can get beyond it that others will not recognize these things and others will think you got it because somebody in the government defined you arbitrarily as a person in a class to be given preference?

□ 2130

No. A government that can give a child a preference in consideration of matters extraneous to that child's virtue and merit is a government that can give a child prejudicial treatment. Is America ready to have a government that will insist that each child is judged by the quality and the character the child has and the child has exhibited?

I believe what the gentleman from California (Mr. FRANK RIGGS) has asked us to do now is to come to a fork in the road, a fork in the road that says: "Mr. and Mrs. America, we have faith in your goodness. We believe that you are ready to travel the higher road, the road of fairness, decency, and respect; and we don't believe that we in Washington are either qualified or able to dictate to you the terms by which you should travel that road."

Let us vote yes for this out of consideration for the young people's right to be treated with decency and out of respect for the goodness that we find in the American people.

Mr. CLAY. Mr. Chairman, I yield the balance of time to the distinguished gentleman from Indiana (Mr. ROEMER) a member of the Committee on Education and the Workforce, to whom we have reserved the right to close debate on this very critical and important issue.

The CHAIRMAN. The gentleman from Indiana is recognized for 2½ minutes.

Mr. ROEMER. Mr. Chairman, I rise in opposition to the Riggs amendment, and I do so even in respect to the gentleman from California (Mr. RIGGS) who I work with on a host of issues.

I would like to tell a more personal story, a personal story about growing up in Indiana where I am born and raised, a story about my mom and dad raising me and teaching me values, values about God and faith, values about giving back to the community and, therefore, my public service, and values about equality. And my mom and dad always said to me, "Everybody pulls their pants on the same way, and you better treat people equally."

That was a value and a principle in my household.

Now growing up in predominantly white Indiana in a rural community, I went to a predominantly white high school. But then I went to the University of California at San Diego where they value diversity, where most of the class was made up of people of color and different religions. And while I got a great academic experience, maybe the best experience was the exposure to this beautiful country, people from all different backgrounds and religions and races. And coming from rural Indiana, one of the best experiences of my lifetime.

Now the UC system has declined its enrollment for African-Americans by 65 percent; Hispanics, by 59 percent. As the U.S.A. is getting more diverse, some of our colleges are getting less diverse.

Affirmative action, Mr. Chairman, should never be about quotas, it should never be about reverse discrimination, but it should be about what my dad and mom told me: equal opportunity for all. We should make this a value and a principle in this great country of ours.

As the civil rights struggle in the 1960s was about protests, it was about changing laws, the struggle in the new century is going to be about access to education. Savage inequality exists in education in our inner cities. Colleges that consider race for admission should

be a value and a principle in this great country.

And let me close, Mr. Chairman, by this. "E pluribus unum" is written all over this great Capitol; from the many, one United States of America; from the many, blacks, Asians, Hispanics, one United States of America; from Catholics and Protestants and Jews; from the many, one United States of America for men, women, and children; from the many, one United States of America.

Let us hold affirmative action that puts principle and value on diversity, on equality, on justice as a principle that is so vital to this great country. Let us defeat the amendment offered by the gentleman from California (Mr. RIGGS). Let us continue to reform and make affirmative action a value that works for all people in the United States of America.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the modified Riggs amendment. This anti-diversity bill would dismantle affirmative action policies in higher learning—by eliminating the ability of public colleges and universities to use gender and race as factors in their admissions decisions.

It would also overturn the Supreme Court's Bakke decision, which allowed postsecondary institutions to use race as one of the factors considered in an admissions decision.

Another impact of the Riggs amendment would be the resegregation of public universities across the country. And, the development of a two-tiered higher education system that would override the authority of states to decide admissions policy. As a consequence, large numbers of, otherwise qualified minority students, would be denied access to higher education.

Despite the clever machinations of affirmative action opponents, affirmative action policies are not simple preferences based on race, sex, and ethnicity. Nor are they social engineering policies intended to artificially create a color-blind society. Rather, affirmative action policies are specifically tailored to remedy the compounded effects of discrimination and privilege—which have had a profoundly negative impact on minority communities. The elimination of these policies in higher learning would further exacerbate disparities which already plague disadvantaged minority communities.

Affirmative action has allowed minorities and women to break through the many barriers of discrimination that have contributed to keeping them undereducated, unemployed, underpaid, and in positions of limited opportunity for advancement.

The Riggs amendment serves no purpose for higher education beyond exacerbating existing wrongs while maintaining the illusion of true equality. We have already begun to witness what the dismantling of affirmative action policies can do. The precipitous decline in minority admissions and enrollment experienced by the California higher educational system after the passage of Proposition 209, is a good example of what can happen. As such, UCLA's law school has seen an 80 percent drop in the number of African-American students offered admission for next fall. This is the lowest number since 1970. And, of the 8,000 students offered admission to the University of California at Berkeley for next fall, only 191 were African-Americans and 434 were Hispanic. This is in comparison to 562 African-American and 1,045 Hispanic students, respectively, last year.

Eliminating affirmative action policies serves no purpose beyond fostering the development of a society based on privilege. Those privileged enough to have access to superior academic institutions are those deemed to have merit. Those who do not, are not. Disadvantaged minorities—due to a long history of systemic discrimination—are more likely not to have access to these structures. Ending affirmative action would simply assure the perpetuation of this already unfortunate system.

Mr. Chairman, I strongly urge my colleagues to vote "no" on the modified Riggs "Anti-Discrimination in College Admissions" amendment. The passage of this extreme measure would threaten the reauthorization of the Higher Education Act, as the President has indicated that he will veto H.R. 6 if this amendment passes. Support for the Riggs amendment would do more harm than good.

Mr. BENTSEN. Mr. Chairman, I rise in strong opposition to this amendment. This amendment would severely undermine efforts to provide opportunity for women and minorities, and its language is so broad and vague that it could even prohibit remedial action in cases of proven discrimination.

This amendment goes beyond what even the courts have said on this issue. It would overturn the 1978 Supreme Court decision in Bakke versus California Board of Regents, which found it constitutional for schools to use affirmative action to advance diversity in education. It would even go beyond the 1996 Fifth Circuit Court of Appeals ruling in Hopwood versus Texas by prohibiting the use of affirmative action where there is proven discrimination on the basis of race, sex, color, ethnicity, or national origin.

This amendment's language is so vague and poorly-defined that the only safe course for colleges or universities would be to make no effort whatsoever to achieve a student body which mirrors the demographics of the communities they serve. The amendment fails to define "preferential treatment", leaving in doubt whether basic efforts such as recruitment, outreach, targeted financial assistance, mentoring, and counseling would be legal. This is not only bad social and educational policy, but a recipe for endless and costly legal wrangling.

Recent experience in my state of Texas underscores how harmful this amendment would be to minority access to higher education. In the 1996 Hopwood decision, the Fifth Circuit Court of Appeals ruled that race could no longer be used as the basis for affirmative action in admission to the University of Texas at Austin. Subsequently, the Texas Attorney General ruled that no colleges in the state could use race as a factor in admissions or financial aid programs.

The result has been a devastating decrease in enrollment by minority students. Undergraduate enrollment by African-American freshman has fallen by 14 percent at the University of Texas at Austin and by 23 percent at Texas A&M University. Hispanic enrollment has dropped by 13 percent at the University of Texas and 15 percent at Texas A&M. At the University of Texas Law School, African-American and Hispanic enrollments have decreased by 87 percent and 46 percent respectively. Medical school enrollment for African-Americans has fallen by 40 percent.

Mr. Chairman, these dramatic declines are harmful not only to minority students, but to our society as a whole. African-Americans currently comprise 11.5 percent of the Texas population, and Hispanics comprise 27.7 percent. In contrast, African-Americans and Hispanics number only 9 percent and 18.8 percent, respectively, of the student bodies of state colleges and universities in Texas. Alarmingly, only 2.9 percent of students accepted for undergraduate studies at the University of Texas in Austin for the 1998–99 school year are African-American.

Clearly, a large segment of society would be left behind if efforts to equalize opportunity and diversify the composition of student bodies are eliminated. When opportunity is eliminated, all students are denied the benefits of learning in a diverse environment, which is critical to succeeding in a diverse workplace and society. Minorities are already under represented in professions such as medicine and law. In an increasingly diverse society and global economy, we ignore this problem at our own peril.

Like other Americans, I want a color and gender blind society. However, we cannot close our eyes and pretend that we live in a perfect world. Discrimination still persists. Too often, individual or institutional discrimination, intentional or not, precludes minorities and women from participating in many levels of our society. Not only is that detrimental to the individuals affected, it hurts our nation and our economy.

Like most things in life, the battle against discrimination has sometimes resulted in reverse discrimination. This is counterproductive. I welcome the Administration's continuing review of existing affirmative action statutes. Government should always be willing to review existing laws. However, we must not reverse efforts toward achieving equality and advancement over the last 25 years.

The Hopwood decision in Texas, as well as Proposition 209 in California, have slammed the door of opportunity for minorities. The Riggs amendment would only compound the damage that has already been done. The Congress of the United States should be working to create and expand opportunity, not to deny it. I urge a no vote on the Riggs amendment.

Mr. RIGGS. Mr. Chairman, fundamentally this debate is about the refusal of my colleagues on the other side to give up their Band-Aid—their fig leaf—their placebo for the failure of their great society social programs and the failure of the public education system in America. The poor in this country, white and black and Hispanic and Asian, were trapped for forty years in a dismal and dysfunctional welfare system that we have only now begun to dismantle. They are still trapped in a public school system that is betraying our nation's children—a public education system that we

on this side of the aisle have tried again and again to reform. We've tried with education savings accounts, with parental choice in education, with shifting power and responsibility and accountability from Washington bureaucracy and powerful teachers unions to states and localities and families. And every one of our efforts—every one—has been resisted tooth and nail by my colleagues on the other side of the aisle, and by the Clinton administration. They will do nothing to reform primary and secondary education: They did worse than nothing for twenty years to reform welfare. What they will do, is defend to the death the right of government to discriminate based on race and sex. Because that is their Band-Aid, their fig leaf, their placebo for a public education system that traps hundreds of thousands of young children in unsafe and underperforming schools. Our children deserve better. And this amendment is part of doing better for them and by them. Support my amendment.

Mr. FAZIO of California. Mr. Chairman, today my colleagues and I have the opportunity to increase access to higher education for all Americans by supporting H.R. 6.

However, a proposed amendment by Congressman RIGGS promises to have the opposite effect by eliminating affirmative action and closing the window of opportunity that higher education offers.

As Americans, we are committed to equal opportunity for all, and special treatment for none.

All of us should have the opportunity to perform and prove our capabilities.

Proponents of anti-affirmative action believe that we lower standards when we support these particular programs.

On the contrary, I believe that we raise the standard by admitting individuals from diverse backgrounds.

They in turn, will provide the role models to enrich and properly reflect the American fabric.

We level the playing field by allowing the under represented population to compete in arenas historically closed to them.

I am concerned about any legislation that eliminates state and local efforts which are designed to increase opportunities for women and minorities—services like counseling and recruiting programs to boost enrollment among minority youth, and math and science programs developed to help girls in secondary school.

Higher education is filled with preferences. According to the Riggs amendment, it's OK to grant preferential treatment to sons and daughters of alumni, to athletes, to other special talents or one based on geography—they are considered legitimate areas for preferential treatment.

But the Riggs amendment says that race, sex, color, and ethnicity are not legitimate.

Eliminating affirmative action sends the wrong message.

UC Davis, a university in my district, is seeing an alarming decline in enrollment from well qualified minority students.

The campus now scrambles for outreach to properly reflect California.

Meanwhile, private colleges in my state are more engaged than ever in seeking to diversify their student body.

The Republicans preach local control—but only when it's to their advantage. Today they want Congress to be the Admissions Office for all of America's public colleges.

Let's let educators decide what students they want, not politicians.

Vote no on the Riggs Amendment.

Mrs. MALONEY of New York. Mr. Chairman, I rise in opposition to the Riggs amendment which would ban colleges and universities that consider race and gender in the application process from receiving Higher Education Act funding.

Many of America's educational institutions try to correct past discrimination or to achieve the benefits of a diverse student body by taking race and gender into consideration in admissions. This amendment would force these colleges and universities to choose between abandoning these important policies or their participation in any Higher Education Act Program.

In the year after the University of California's Board of Regents approved a policy prohibiting all affirmative action measures in public universities, the number of African-Americans admitted to UCLA law school dropped by 80%, and at UC-Berkeley law school by 81%.

Next fall's UC-Berkeley incoming class has dropped 66% for African-Americans and 53% for Hispanics.

When affirmative action is done right it is fair and it words.

It is not quotas.

It is not, and I do not favor, rejection or selection of any person solely on the base of gender or race without considering merit and qualifications.

I believe there will be a day when we do not need affirmative action, but we are not there yet. The statistics show that the job of ending discrimination in this country is not over.

Mr. PAYNE. Mr. Chairman, I would like to voice my adamant opposition to Mr. Riggs' amendment. Congressman Riggs and his supporters believe that the days when affirmative action policies are needed are over. I suppose they believe that equality has been reached when only 18 percent of those enrolled in colleges are minorities but African-Americans, Hispanics and Native Americans make up 30 percent of the college age population. I guess they believe that diversity is reached when only 33 percent of all African-American high school graduates attended college in 1993 compared to nearly 42 percent of whites.

Affirmative action is still needed and without it the composition of our colleges and university campuses will be reminiscent of what they looked like 30 years ago. We have seen this very thing happen in States such as California and Texas where minority admissions have declined because of anti-affirmative action laws.

This year the University of California campuses report they received more minority applications with stronger academic credentials than ever before. At the same time, UCLA's law school saw an 80 percent drop in the number of African-American students offered admissions for next fall which is the lowest number since 1970.

This is a clear indication of how crippling anti-affirmative action laws can be to the education of minority populations. Many minority students in California are viewing this anti-affirmative action law as evidence that the University of California system does not value diversity on their campuses.

Therefore, they are starting to consider going out of state for school which is much more expensive. By passing the Riggs amendment we will send the same message to all minority students nationwide. Additionally, the loudest battle cry I hear from opponents of affirmative action is that the practice of using quotas and set asides is wrong and needs to be eliminated.

Congressman RIGGS has chosen the wrong area to combat such a belief because under the Supreme Court *Bakke* (back-ee) decision, schools are not allowed to use quotas and set asides in their admissions process.

They may, however, exercise their right to consider race and gender as ONE of the factors in their admissions decisions. This is not discrimination. This is not preferences. This ruling simply allows colleges and universities to have the freedom to choose the students who become part of their institutions.

I believe that if this amendment passes it will have a dramatic and adverse effect on the minority student population at our colleges and universities. And that, Mr. Chairman, would be one of the biggest tragedies I can imagine. I ask my colleagues to consider this when they cast their vote on this amendment.

Mr. RODRIGUEZ. Mr. Chairman, I rise today in opposition to the Riggs amendment. Even after being redrafted by its sponsor, this measure punishes minority students and shortchanges institutions of higher learning.

The amendment assumes we are in a society that is free from discrimination, and that Hispanic and African-American students have equal opportunity. The fact of the matter is that discrimination is alive in our society and that while much lip service is paid to equality—for minority students it is far from a reality.

This is why our colleges and universities across the country have turned to affirmative action.

Our institutions of higher education take race and sex into consideration because they know that a diverse student body benefits everyone and provides an educational setting for our students that mimics the real world.

I think everyone in this chamber would agree that students learn as much from each other as they do from their professors and books—and this is all the more true when students are fortunate enough to be in a richly diverse campus.

We must not revert to the days of the educational 'haves' and 'have nots' and keep some of our brightest minds from seeking out public colleges.

If this ill-willed amendment is adopted, some students may be able to take the road to private campuses. But, what is most distressing is that many minority students may have no option at all—and that the cleavages in our society will continue to expand.

The problem here is that the Riggs amendment does not really address the problem of discrimination or equality. What it really does is prohibit our public colleges from using the most effective tools to help remedy past discrimination.

Surprisingly the Riggs amendment would dramatically expand the federal role of education in an area where states and localities

should have control. We preach about limiting the federal government's role in education—but what we are doing here is in fact grossly expanding it.

In a recent letter to members of Congress, both Attorney General Reno and Secretary Riley promised to call for a presidential veto to HR 6 if the Riggs amendment is included.

Let us not be fooled by the new Riggs amendment. I urge my fellow colleagues to take a close look at the fine print in this amendment and see how detrimental it will be to our schools and to students.

In my home state of Texas, where affirmative action has been killed, the University of Texas law school now has only four entering African-American students, where former classes had more than thirty. The same holds true for the California schools where a similar proposal has been adopted—there has been a significant drop in the number of minority admissions. This is a step backwards and it must be stopped!

We are talking about the future of an entire generation of students. We must offer our FULL support and help them pursue their educational dreams.

I urge my colleagues to reject this measure and stand up for diversity and strength.

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in strong opposition to the Riggs Amendment to eliminate affirmative action in higher education. This amendment would have a devastating effect on efforts to correct past discriminations on our college campuses and I would urge my colleagues to oppose this amendment.

The landmark Supreme Court decision Bakke v. California Board of Regents recognized the use of affirmative action as a constitutional means to advance diversity in higher education. The Riggs amendment would eliminate affirmative action even if the courts ordered it as a remedy where there is proven discrimination on the basis of race, sex, or ethnicity.

I have been contacted by Yale University and the University of Connecticut in my home state, as well as many other academic associations, religious organizations and civil rights organizations from across the country who have joined together to express their strong opposition to the Riggs amendment. It is intrusive and would dictate college admissions policies to public and private institutions by limiting their ability to select students based on the needs of those institutions. Our institutes of higher learning strive to provide the best educational experience possible for America's students. We should not hinder this effort by restricting a school's ability to promote a strong and diverse student body.

The devastating impact of the Riggs amendment on minority enrollment is already evident in the California school system where enrollment by minorities has dropped significantly. As we move into the 21st century with a increasingly diverse and global economy we must ensure that access to higher education is not closed off to the young people of this nation. Rather we should welcome the talents of all our citizens.

I urge my colleagues to oppose the Riggs amendment.

Mr. MCINTOSH. Mr. Chairman, I support the Riggs amendment to Title XI of H.R. 6, the Higher Education Reauthorization Bill, because I believe that it will make America a more fair country.

I believe that America should be a place where people of merit can get ahead based upon their own capabilities, and "not be judged by the color of their skin but by the content of their character" in the words of the great Reverend Martin Luther King, Jr.

The American people overwhelmingly oppose the use of racial quotas in higher education. Surveys show that 87% of all Americans, and a full 75% of African-Americans, feel that race should not be a factor in admission to a public university.

Federal appellate courts, including the U.S. Supreme Court, have repeatedly struck down racial preference systems used by college admission offices as unconstitutional.

People of color deserve to be proud of their academic credentials. Racial quotas only diminish the significance of their accomplishments.

The statutory law as it currently stands automatically presumes that a person of color grew up in disadvantaged circumstances, and deserve a "leg up" in the admissions process. This is a hard message to accept for many of the voters in my district who come from families of modest means.

I would like America to be a color blind society. Unfortunately, this is simply impossible when America's young adults are forced to confront the differences that the color of their skin bears upon whether they'll get into the college of their choice or not.

This is a period in their lives when they form the opinions which they will carry with them throughout adulthood. I am afraid that the frustrations caused by racial quotas causes too many of them to be conscious of race in every setting.

Racial preferences in college admissions violate the principles of freedom and equality on which the civil rights struggle is based. Racial preferences are both immoral and legally unconstitutional.

The field should be level in college admissions. Race should not be a factor.

For these reasons and others, I support the passage of the Riggs amendment.

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to the Riggs amendment to H.R. 6, which would prohibit public institutions of higher education from receiving federal funding if they use race or gender in making admissions decisions.

The status of admissions in California in the wake of Proposition 209 illustrates the harmful way in which the Riggs amendment would impact the nation. Statistics already show a drop of over 50% in undergraduate admissions at UC Berkeley for African-Americans, Latinos and Native Americans.

Acceptance by students is not the only place where the elimination of affirmative action has had a crushing impact. It has an impact on acceptances by students as well. Many of the highest-scoring African-American students are turning down the University of California in favor of private universities. African-American faculty at the university are discouraging prospective African-American students from enrolling because the faculty regard Berkeley as a divisive areas and a national laboratory for the dismantling of affirmative action programs in higher education. Enrollment of African-Americans at UC Berkeley has dropped 66 percent this year, and enrollment of Latinos has dropped 53 percent at that university. At the UC Berkeley Boalt Hall law school, none of the African-American students accepted into the class of 1997 chose to enroll.

Affirmative action programs are part of a larger commitment to student diversity which enriches the educational experience, strengthens communities, enhances economic competitiveness, and teaches our students how to be good leaders. This amendment is another opportunity to erode decades of progress in ensuring that diversity in higher education for all Americans. It is just another extreme effort, as we saw in the transportation bill, to eliminate federal programs that provide opportunity for women and minorities.

This bipartisan Higher Education bill has many benefits for our nation's students. The Riggs amendment most certainly is not one of them. It will have a crushing effect on diversity in higher education. I urge my colleagues to support educational opportunity for all Americans and oppose the Riggs amendment.

Mr. DIXON. Mr. Chairman, I rise in strong opposition to the Riggs amendment to H.R. 6 which would ban the use of affirmative action in admissions for public colleges and universities that receive funding under the Higher Education Act.

The House should reject this amendment. It is another step down the road of educational segregation led by California Proposition 209, the University of California affirmative action ban, and the Hopwood decision in the U.S. Court of Appeals for the Fifth Circuit. The Riggs amendment overturns the U.S. Supreme Court's ruling in Regents of the University of California v. Bakke, which for twenty years has allowed America's universities to provide opportunities for many disadvantaged minorities. This amendment is an unfair federal intrusion into the college and university admissions process and its passage will likely result in a veto of this important reauthorization legislation.

Mr. RIGGS says in his Dear Colleague letter that he wants to "ban all preferences and quotas in college admission[s]." My question is what quotas and preferences? His amendment fails to define them. Is the mere consideration of race as one factor in a complex admissions process considered a preference, even when there is no specific numerical goal for admission of a particular group? There have been "preferences" for white Americans since this country was founded. It is only when universities engage in legal, valid attempts to provide a level playing field for minorities that people see a preference problem.

Consider that while African-Americans, Latinos, and Native Americans make up 28 percent of the college-age population, they account for only 18 percent of all college students. Only 33 percent of African-American and 36 percent of Hispanic high school graduates ages 18–24 attended college in 1993, compared to 42 percent of whites in this age group.

Recent evidence suggests that the anti-affirmative action initiatives of the past few years

will only make this situation worse. A year after the UC Regents' decision to ban affirmative action in the UC system, the number of African-Americans admitted to the UCLA law school dropped by 80 percent and the number admitted to the Berkeley campus dropped by 81 percent. The fall 1997 semester at Boalt Law School of UC Berkeley witnessed the matriculation of only one Black student in a class of 268. Out of the 468 students in the first-year University of Texas Law School class, only four are African-American.

Statistics on UC undergraduate admissions for the fall 1998 class—the first class which will suffer the full brute force of Prop. 209—are equally startling. The number of African-Americans admitted to UC Berkeley and UCLA dropped 66 percent and 43 percent, while the number of Latinos dropped 53 percent and 33 percent.

Supporters of the Riggs amendment may be quick to cite today's Los Angeles Times, which reports that Boalt Law School at Berkeley has admitted more than twice the number of African-Americans—32—for fall 1998 than were admitted last year. This is great news. However, it does not obviate the need to defeat this amendment. The numbers throughout the UC system are still paltry, and adoption of the Riggs amendment would replicate the UCLA and Berkeley minority undergraduate admissions decline nationwide.

The UC admissions statistics provide incontrovertible evidence that the Riggs amendment would jeopardize educational gains for minorities made in the aftermath of the Bakke decision. In Bakke, the Court held that in certain instances a college or university may consider race in admissions. Examples include the consideration of race to remedy an institutional history of discrimination and the promotion of a university's mission to create a diverse student population. If passed, the Riggs amendment would force public colleges and universities to choose between providing opportunities for minorities and women and receiving funds under the Higher Education Act.

The many schools across the nation that would be affected by this amendment generally have admissions processes based on an array of complex factors. These factors measure not only an applicant's potential for individual academic success but also an applicant's ability to contribute positively to the institution overall. The Riggs amendment represents an unfair federal intrusion into those processes. We cannot afford to tie the hands of America's universities at a time when minorities still lag behind the rest of America in educational attainment.

The Kerner Commission Report thirty years ago stated that "Our Nation is moving toward two societies, one black, one white—separate and unequal." A new report by the Milton S. Eisenhower Foundation, "The Millennium Breach," suggests that the prediction has become a reality with minorities disproportionately represented among the poor and an ever-increasing gap between rich and poor. If, as I believe it is, education is the key to economic empowerment, then the Riggs amendment will only continue America's progress toward economic and social segregation.

I urge a "no" vote on the Riggs amendment.

Mr. LANTOS. Mr. Chairman, I rise today to support affirmative action programs in this nation and to oppose strongly this unfortunate amendment that the House is considering. This amendment is an outrageous assault upon the Constitutional responsibilities of American colleges and universities. If Amendment 73 is adopted, we would face debilitating nationwide consequences which would destroy the years of progress our higher education system has made in compensating for past and present discrimination against women and minorities.

Affirmative action programs are still needed. Years of past discrimination coupled with continued discrimination have deprived many women and minorities of equal access to higher education. The long shadow of historical legal discrimination is still visible in our country; this discrimination was propagated and enforced by the federal government.

President Clinton has reminded us that there is still no level playing field for women and people of color. Mr. Speaker, now is not the time to forget that bigotry, inequality, and economic barriers still close doors everywhere for women and minorities. Mr. Riggs' amendment (Amendment 73) would prevent educational institutions from providing disadvantaged students with scholarships, financial aid, support programs, and outreach programs are essential if students from disadvantaged communities are to have access to higher education, which is the prerequisite to their economic and social advancement.

In the Bakke decision, the Supreme Court upheld the use of affirmative action to advance diversity in education. Colleges and universities voluntarily administer affirmative action programs to comply with their statutory and Constitutional obligations to end discrimination in higher education. Certain institutions would be placed in the absurd position of being cut off from federal funding while attending to court-ordered desegregation plans. This legislation would create a serious backlash against current legal redress for past discrimination.

Mr. Chairman, if affirmative action admission programs are banned, we would lose a valuable tool for combating the existence of ignorance and prejudice. Attending a diverse campus gives students the opportunity to confront face-to-face the stereotypes and harmful assumptions about difference in our country. The college experience is one of peer exchange. There are few better ways to break down stereotypes of race, ethnicity, and gender in this country than allowing students to live and study together in a community of mutual respect and understanding.

We cannot have an effective dialogue on racism and bigotry in this country unless everyone is given an equal chance to attend college and obtain a college degree. The economic divisions in this country are linked to education levels within any given group. It is not a tragedy of circumstance that those minorities with the lowest levels of higher education attainment are also the poorest people in our country. This ill-conceived amendment would not only re-segregate our colleges and universities, it would have a chilling effect upon the larger society.

As a proud alumni of the University of California at Berkeley, I am appalled by the plunge in undergraduate admissions of minority students since the ban on affirmative action in California was approved in a state referendum. That unfortunate California referendum is the fundamental idea behind this amendment that we are considering, and its consequences in California have demonstrated why we must oppose it. In California, admissions of Chicano, Latino, and African-American students for the coming freshman class have dropped by more than half. In the recent fall class of the Boalt Law School at Berkeley only seven African-American students were admitted, and only one chose to enroll.

Mr. Chairman, this ill-conceived amendment by Mr. RIGGS sends a message to women and minorities that they are not welcome in institutions of higher learning. This bill proclaims loudly that we do not want a just society, that we would rather turn our backs and not accept the existence and legacy of discrimination.

I am not alone in decrying the effect of eliminating affirmative action. Mr. Speaker, sixty-two of our country's most prominent university presidents oppose this legislation and have placed advertisements in national papers to emphasize the importance of racial, ethnic, and gender diversity in contributing to a strong entering class.

The students of the University of California, Berkeley, one of the finest public universities in this country and my alma mater, have taken it upon themselves to speak out against H.R. 3300 and to speak in support of affirmative action. H.R. 3300, introduced by Mr. RIGGS, is the stand-alone version of Amendment 73 which we are now considering.

Mr. Chairman, on Wednesday, April 22, the Associated Students of the University of California (ASUC) unanimously approved a resolution opposing these provisions. I am proud that the students stand firmly united against this harmful measure. Mr. Speaker, I ask that the statement be included in the RECORD. Let us learn from them.

A BILL OF THE ASSOCIATED STUDENTS OF THE UNIVERSITY OF CALIFORNIA IN OPPOSITION TO THE "ANTI-DISCRIMINATION IN COLLEGE ADMISSIONS ACT OF 1998" (HR 3330)

Authored and sponsored by: ASUC External Affairs Vice-President Sanjeev Bery

Whereas: The misnamed "Anti-Discrimination in College Admissions Act of 1998" (HR 3330) would prohibit colleges and universities from using affirmative action in college admissions if they receive any federal funds; and

Whereas: If any student at a university receives federal loan money or Pell grant funds, the university would be prohibited from using affirmative action in admissions; and

Whereas: Representative Frank Riggs is the author of this resolution, and is almost certain to offer it as an amendment to the Higher Education Act when it is reauthorized on April 22, and

Whereas: Affirmative action programs establish equal opportunity for women and people of color, redress gender, racial, and ethnic discrimination, and encourage diversity in the workplace and educational institutions; therefore, be it

Resolved: that the Associated Students of the University of California oppose Congressman Riggs' "Anti-Discrimination in College Admissions Act of 1998" and urge all California members of the Congress to oppose this resolution.

Mr. THOMPSON. Mr. Chairman, I rise today in opposition of Representative FRANK RIGGS' H.R. 3330, the "Anti-Discrimination in College Admissions Act of 1998" which will be offered as an amendment during the House consideration of H.R. 6, The "Higher Education Authorization Act" of 1998. This amendment would prohibit colleges and universities that take race, sex, color, ethnicity, or national origin into account in connection with admission(s) from participating in, or receiving funds under any programs authorized by the Higher Education Act of 1965 (HEA).

This amendment will not only have a devastating impact on post secondary admissions at both public and private institutions, but also discourages institutions from considering race, even in instances where the purpose is focused on remedying past discrimination. This piece of legislation is far more sweeping than California's Proposition 209 in that H.R. 3330 aims to eliminate affirmative action in private, as well as public, colleges and universities. It will also constrain an institution's ability to satisfy constitutional and statutory requirements to eliminate discrimination in post secondary education.

There is now evidence of what happens when universities are forced to drop their affirmative action programs. The University of California's Board of Regents banned all affirmative action and the acceptance rate of African-Americans to UCLA Law School fell by eighty percent. After the Hopwood decision, admission of African-Americans to the University of Texas School of Law dropped by eighty-eight percent. It is clear that with the passage of this amendment, there will be a re-segregation of colleges and universities.

In Mississippi the percent of the population 25 years and older who have a college degree is 14.7%. Moreover, Mississippi ranks 47th out of fifty states in relation to the percent of the population having a college degree and 47th out of fifty in comparison to other African-Americans in the fifty states.

The Riggs amendment is an unnecessary, regressive, and dangerous bill that would destroy the progress that has been achieved in the last thirty years. This amendment will merely serve as a tool to increase the disparities in education and income between men and women and whites and blacks. Affirmative action in higher education has clearly established significant advances in the area of equal opportunity for ethnic minorities and women in admissions to colleges and universities and the workforce. I will continue to support programs which strengthen not tear apart equal opportunity. If the Higher Education Authorization Act (H.R. 6) contains the "Anti-Discrimination in College Admissions Act of 1998", I will vote against H.R. 6.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I rise in strong opposition to the Riggs amendment. It is an extreme, vindictive political ploy which will serve only to prevent innocent children from seeking a better quality of life through the pursuit of higher education—and it should be voted down!

My colleagues, the Riggs amendment would say to Black and Latino taxpayers that even though you, because of these very same programs, help to pay for the cost of public education in your state, college administrators cannot design outreach programs to maximize opportunities for your children to attend their institutions. This is wrong.

As an African-American physician, I want you to know that the passage of this ill-conceived amendment would serve to reduce the already existing shortage of African-American physicians in this country.

In an article entitled, "Can Black Doctors Survive", Dr. Jennifer C. Friday of the Joint Center for Political and Economic Studies, points out that even despite affirmative action programs instituted by medical schools in the 1960's and 1970's African-Americans comprised only 3.1 percent of all the nations physicians in 1980 and still are only 3.6 percent of the total today. This is unacceptable.

We all know that there is a shameful gap in the health status of minorities in this country. Increasing the number of minority physicians is critical to closing this gap.

I am sure there are those among us who would say that the action by the Board of Regents of the University system in California and the ruling in the Hopwood case in Texas could have been mitigated by other policies that could be and were put in place in these two states.

My colleagues, I want to make sure that you know that this has not been the case. The numbers of African-Americans and Hispanic admissions in the California and Texas University system, as predicted, have dropped precipitously.

I am totally confounded that anyone could think that discrimination no longer exists, or that educational opportunities are now equal for all races and ethnic groups in this country.

This is clearly and unfortunately not the case. America's children who live in predominantly minority communities do not receive the same level of funding per student and their education is consequently shortchanged. That is why some of us are frequently on the floor arguing for repair, construction and support for our public school system.

My colleagues, the Riggs amendment should be defeated because it would: result in the re-segregation of public universities across the country; prevent public universities and colleges from remedying past discrimination; produce a two-tiered higher education system which would override the authority of state governments to decide admissions policy; and endanger targeted outreach and recruitment programs for women and minorities.

This proposal is an outrage and flies in the face of all that America stands for. It is as was said in last Thursday's Washington Post, nothing more than political "grandstanding" which "demeans the House" and should be defeated. I urge my colleagues to vote no on this amendment.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from California (Mr. RIGGS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RIGGS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 249, not voting 13, as follows:

[Roll No. 133]

AYES—171

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bono
Brady
Bryant
Bunning
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
Kingston
Knollenberg
Kolbe
Latham
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Matsui
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Nethercutt
Northup
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Ramstad
Riggs
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryun
Salmon
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Young (FL)

NOES—249

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Buyer
Capps
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
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
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Rangel
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snowbarger
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wise
Wolf
Woolsey
Wynn
Young (AK)

NOT VOTING—13

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
McNulty
Neumann
Radanovich
Schaefer, Dan
Shuster
Skaggs
Yates

□ 2156

Mrs. MYRICK, and Messrs. GILCHREST, SNYDER, STUPAK and RUSH changed their vote from "aye" to "no."

Messrs. COBURN, THUNE and GREENWOOD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 2200

PERSONAL EXPLANATION

Mr. MATSUI. Mr. Chairman, I ask that the RECORD reflect that I voted the wrong way on the Riggs amendment. I intended to vote no. I made a mistake and voted the wrong way.

LIMITING DEBATE TIME ON AMENDMENT NO. 79

Mr. GOODLING. Mr. Chairman, I ask unanimous consent that all debate on Amendment No. 79 and all amendments thereto be reduced to 10 minutes, equally divided and controlled by myself or my designee and the gentleman from Missouri (Mr. CLAY), or his designee, with an additional 90 seconds on each side for a wrap-up.

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

There was no objection.

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CAMPBELL. Is it not customary to have the Reading Clerk read the amendment first?

The CHAIRMAN. Under the rule, the amendment will be considered as read. The gentleman is offering the amendment at this point?

AMENDMENT NO. 79 OFFERED BY MR. CAMPBELL

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 79 offered by Mr. CAMPBELL:

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

TITLE XI—NONDISCRIMINATION PROVISION

SEC. 1101. NONDISCRIMINATION.

(a) PROHIBITION.—No individual shall be excluded from any program or activity authorized by the Higher Education Act of 1965, or any provision of this Act, on the basis of race or religion.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to preclude or discourage any of the following factors from being taken into account in admitting students to participate in, or providing any benefit under, any program or activity described in subsection (a): the applicants income; parental education and income; need to master a second language; and instances of discrimination actually experienced by that student.

The CHAIRMAN. Pursuant to the order of the Committee today, the gentleman from Pennsylvania (Mr. GOODLING), or his designee, and the gentleman from Missouri (Mr. CLAY), or his designee, will each control 6½ minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, this is what my amendment provides. I would like to ask my colleagues' indulgence so I can read it, and I am also going to ask the gentleman from California (Mr. HORN) to make the copies available over to the Democratic side so that they actually have the text, if he might assist me in that, or the gentleman from New Hampshire (Mr. BASS).

Mr. Chairman, it reads: No individual shall be excluded from or have a diminished chance of acceptance to any program or activity authorized by the Higher Education Act of 1965, or any provision of this act, on the basis of race or religion.

Mr. Chairman, there is a second clause which says that no one shall be excluded from a program or their chances of getting into the program diminished on the basis of their race or their religion. I list other things which might be considered as an alternative.

Existing law prohibits exclusion of anybody on the basis of their race. And I want to say "thank you" to several colleagues on the Democratic side with whom I almost had an agreement that this be accepted. At the last minute it was not possible, but I want to thank the good faith that went into the effort on that behalf.

The existing law says we may not exclude on the basis of race. I am saying that we may not exclude or have the chance of acceptance diminished on the basis of race. And I suggest this at least is what all of us could agree on is what good affirmative action is.

Mr. CLAY. Mr. Chairman, I rise in opposition to the amendment, and I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, I too rise in opposition to this amendment. I would point out to our colleagues, I believe this is essentially the same issue we just defeated on the last vote and I would encourage them to do the same on this vote.

I also oppose this because I believe it is a breeder of litigation. I believe that this amendment will not breed equality; I believe it will breed litigation. To understand why, imagine the case of a student who applies for a job under a Federal Work Study program, which is a program authorized under the act, and the student alleges that he or she has been denied the job on the basis of race. This amendment does not answer the following questions:

One, must the student prove that there was discriminatory effect or discriminatory intent? Secondly, who has the burden of proof under this amendment? Does the student have to prove that he or she has been the victim of discrimination or is the burden on the institution to show that the student was not the victim of discrimination? And finally, what is the quantum of proof? Does the person carrying the burden have to prove this to a preponderance of the evidence? To a substantial degree? Beyond a reasonable doubt?

Those are all questions that I believe are not satisfactorily answered in the amendment. I believe it captures the same spirit of the amendment we just defeated, but I also believe it breeds litigation and would cause considerable chaos in higher education programs.

Mr. Chairman, I urge its defeat on that basis.

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

Mr. CLAY. Mr. Chairman, we have 3 minutes remaining, and I reserve the balance of my time.

The CHAIRMAN. Just to clarify for the Clerk, the gentleman from California (Mr. CAMPBELL) is offering Amendment No. 79 or Amendment No. 76?

Mr. CAMPBELL. Mr. Chairman, I do not know the number. I am offering the amendment whose text I read and which was preprinted. Mr. Chairman, it is 76, I am informed. I am informed it is 76.

The CHAIRMAN. For the benefit of all Members, it is the Chairs' impression that amendment intended to be considered now is Amendment No. 76 as preprinted.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. CAMPBELL).

The CHAIRMAN. Without objection, the time limit previously agreed to by unanimous consent will apply to this debate.

Mr. GOODLING. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I am prepared to close in less than a minute. Existing law answers all of the questions that were put by the gentleman from New Jersey (Mr. ANDREWS), my good friend and colleague. Existing law says that no person in the United States shall on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

My proposal says, in addition, it does not repeal that. It says no individual shall be excluded from or have a diminished chance of acceptance to any program or activity authorized by the Higher Education Act of 1965 or any provision of this act on the basis of race or religion.

It then goes on to say that nothing in that subsection I just read shall be construed to preclude or discourage any of the following factors from being taken into account and admitting students to participation in or providing any benefit under any program or activity described in subsection A: Applicant's income, parental education and income, need to master a second language, an instance of discrimination actually experienced by that student.

Mr. Chairman, I conclude by saying there is no one, I think, in this body who wants to exclude anyone from a Federal program on the basis of that person's race. That is what this amendment makes clear. It should have been noncontroversial. I am hoping that it is when the vote comes.

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

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, this amendment is really no different than the amendment that we have already defeated. It goes to the very heart of this country's obligation to people who have not had the same opportunities in education, to open up their opportunities by allowing them entry into our universities.

The Riggs amendment said we could not take into account the necessity of diversity in our campuses by giving an advantage to some group, some racial group, national origin group, so that they could create a much more diverse community in our universities.

What this amendment offered by the gentleman from California (Mr. CAMPBELL) says is not the question of admitting but excluding. We cannot exclude. What does exclude mean? We already have definitions in the law under Title VI of the Civil Rights Act that call for nondiscriminatory action. The gentleman is asking this House to interpret exclusion perhaps from a program as per se discrimination. That is wrong.

If Members voted against the Riggs amendment, they must vote against this amendment also. It is much more mischievous. It creates a great confusion on Title VI of the Civil Rights Act, and I hope that Members will defeat this amendment.

I know that my colleague in speaking earlier on the Riggs amendment broke my heart when he talked about Asian Americans scoring very high, not being able to get into the university. I feel for those individuals. But I as a human being, as an American citizen, I have an obligation to make sure that our public universities have an opportunity for everyone. This means to create a diverse university with the ability to create this we have to have an affirmative action program.

So to adopt this amendment, to say that if we exclude someone it is a per se act of discrimination, we are creating a whole new legion of law and having to bring in the lawyers to interpret this. This is very bad. This is mischievous. I urge my colleagues to defeat this amendment.

The CHAIRMAN. The Chair seeks one last clarification. The Chair and the Parliamentarian are convinced that the author intended to offer and read to the Committee his Amendment No. 79 as preprinted; is that correct?

Mr. CAMPBELL. That is correct, Mr. Chairman.

Mr. CLAY. Mr. Chairman, we are now debating Amendment No. 79?

The CHAIRMAN. The Committee has been debating Amendment No. 79 since it was offered.

Mr. CLAY. Mr. Chairman, I yield the balance of our time to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I thank the gentleman from Missouri (Mr. CLAY) for yielding me this time.

Mr. Chairman, this started out as a bipartisan bill designed to expand opportunities and I hope it ends up that way if we defeat this divisive amendment.

Mr. Chairman, this language either means nothing because Title VI already prohibits discrimination or it is different from Title VI and that will take years of litigation to interpret what it means. There is one interesting legal point in terms of discrimination on religion. We do not know whether that would mean that religious schools could or could not discriminate or prefer those of its religion.

But there is one thing that we know, and that is we could not remedy notorious discrimination if this amendment would pass. Whatever it means, it would attack valuable programs designed to address woeful underrepresentation of minorities in certain fields. There are only a handful of minority Ph.D.'s granted in science every year and outreach initiatives to address this woeful underrepresentation aimed at minorities, such as the Ronald E. McNair program to encourage minorities to pursue doctorates in science. Those programs would be in jeopardy.

Let us keep opportunity open. I urge Members to defeat this amendment just like we defeated the last amendment.

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

The CHAIRMAN. Pursuant to the unanimous consent agreement, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) will each be recognized for 1½ minutes to wrap up.

The gentleman from Pennsylvania (Mr. GOODLING) is recognized for 90 seconds.

Mr. GOODLING. Mr. Chairman, I yield myself 45 seconds.

Mr. Chairman, I merely want to thank everyone for their patience. I think we are probably completing one of the most important pieces of legislation that we will deal with this year. Millions of Americans, young people and old, who are going to colleges and postsecondary schools will certainly benefit dramatically.

□ 2215

I want to thank members of the staff.

First of all, I want to thank the gentleman from California (Mr. MCKEON) and the gentleman from Michigan (Mr. KILDEE) for their effort to bring this bipartisan legislation before us. I want to thank Vic Klatt, Sally Stroup, George Conant, Sally Lovejoy, Jo Marie St. Martin, Jay Diskey, Pam Davidson, Darcy Phillips, David Evans, Mark Zukerman, and Marshall Grisby for the tremendous job they have done.

Mr. Chairman, I yield 45 seconds to the gentleman from California (Mr. MCKEON), the subcommittee chairman,

who worked long and hard to put this legislation together.

Mr. MCKEON. Mr. Chairman, I would like to join the gentleman from Pennsylvania (Mr. GOODLING), the chairman, in thanking the members of the staff. He named all of the ones I was going to name. I want to thank all of you, plus my personal staff, Bob Cochran and Karen Weiss, for the great work they have done, for all of you for being patient with us throughout this day.

This has been a real bipartisan effort. The underlying principle in all that we have done has been for students and their parents to see that they get a full, equal opportunity to get a college education. I think that is good for America, and I think we passed a good bill. I want to thank all of my colleagues for working to make this such a good effort.

Mr. KILDEE. Mr. Chairman, I yield myself the balance of our time.

Mr. Chairman, as we conclude debate on this, I would like to recognize the very hard work of the staff on this legislation over the last 16 months.

On the Republican side, I want to acknowledge the excellent work of Bob Cochran and Karen Weiss, the personal staff of the gentleman from California, and Vic Klatt, Sally Lovejoy, Lynn Selmser, David Frank, D'Arcy Phillips, George Conant, and Pam Davidson of the committee staff.

But most importantly, I want to recognize the absolutely superb efforts of Sally Stroup who spearheaded this work on this legislation. She is a gracious, thoughtful, and very competent staff person. Everyone in this Chamber owes her a great debt of gratitude.

On the Democratic side, I want to express my appreciation to Chris Mansour and Callie Coffman of my own personal staff, and Gail Weiss, Mark Zukerman, Marshall Grigsby, Alex Nock, and Peter Rutledge of the committee staff, as well as Broderick Johnson, the former committee counsel, now at the White House.

Further, while she has moved to the Institute of Museum and Library Services, I also want to thank Margo Huber, who, as a member of the committee staff, did exceptionally fine work in helping formulate this bill.

Perhaps most important, I thank David Evans. For 19 years, David served Senator Pell, on the Senate Education Subcommittee, and I persuaded him over a year ago to come here and work on this important reauthorization bill. He and I have worked closely together, and I value very, very much the contributions he has made and the friendship we have forged.

Finally, we are all grateful for the hard work of Steve Cope in the Legislative Counsel's office, Deb Kalcevic at the Congressional Budget Office, and the staff of the Congressional Research Service, particularly Margot Schenet, Jim Stedman, and Barbara Miles.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the Campbell amendment. This measure is legal minutia that erodes existing statutes already established to address concerns about discrimination in higher education.

In fact, in many ways, the Campbell amendment mimics Title VI of the Civil Rights Act—which already prohibits institutions of higher education that participate in programs, receiving Federal financial assistance from the Department of Education, from discriminating against students on the basis of race, color, or national origin. As such, discrimination against individual students in the administration of Higher Education Act programs is already forbidden by law.

The Campbell amendment takes an additional step in that it extends this "anti-discrimination" policy to include religion. The need for this added dimension is rather confusing since there are no programs under the Higher Education Act in which religion is a consideration. Another issue of concern is that this amendment would prohibit religious educational institutions, which participate in Higher Education Act programs, from considering an applicant's religion in admission.

Mr. Chairman, I am very concerned about the nature and purpose of this initiative. It is extremely ambiguous and very confusing. My concerns about the extent of its impact raises questions about institutions that receive Higher Education Act funding will be prohibited from participating in affirmative action at any level where race or religion is an issue, including admissions.

Mr. Chairman, I urge my colleagues to vote "No" on the Campbell "nondiscrimination provision" amendment. This is an obscure measure that serves only to raise more questions and puts current statutes at risk.

Mr. KILDEE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CAMPBELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 227, not voting 16, as follows:

[Roll No. 134]

AYES—189

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Bartlett
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bono
Brady
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Everett
Fawell
Foley
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Northup
Norwood
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—227

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Barton
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Burr
Capps
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hinchey
Hinojosa
Holden
Hooley
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
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley

Mollohan	Rivers	Stenholm
Morella	Rodriguez	Stokes
Murtha	Roemer	Strickland
Nadler	Rothman	Stupak
Neal	Roybal-Allard	Tanner
Ney	Rush	Tauscher
Nussle	Sabo	Thompson
Oberstar	Sanchez	Thurman
Obey	Sanders	Tierney
Olver	Sandlin	Torres
Ortiz	Sawyer	Towns
Owens	Saxton	Traficant
Pallone	Schumer	Turner
Pascrell	Scott	Velázquez
Pastor	Serrano	Vento
Payne	Shays	Visclosky
Pelosi	Sherman	Walsh
Peterson (MN)	Sisisky	Waters
Pickett	Skeen	Watt (NC)
Pomeroy	Skelton	Watts (OK)
Poshard	Slaughter	Waxman
Price (NC)	Smith (MI)	Wexler
Pryce (OH)	Smith, Adam	Weygand
Quinn	Snyder	Wise
Rahall	Souder	Woolsey
Rangel	Spratt	Wynn
Redmond	Stabenow	
Reyes	Stark	

NOT VOTING—16

Bateman	Hastings (FL)	Schaefer, Dan
Carson	Hilliard	Shuster
Christensen	Largent	Skaggs
Dickey	McNulty	Yates
Doyle	Neumann	
Gonzalez	Radanovich	

□ 2236

Mr. ENSIGN and Mr. GIBBONS changed their vote from "aye" to "no."

Messrs. GREENWOOD, SOLOMON, HYDE and UPTON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any other amendments?

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

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

Mr. VENTO. Mr. Chairman, I rise today in support of the Higher Education Reauthorization Act. As a longtime advocate of educational opportunities for Americans, I have advocated and fought to ensure that access to quality education and solid job training skills is more than a pipedream for working families. Although there are several facets of this legislation, there are a few issues in particular that I would like to highlight. As we prepare to enter the 21st Century, America needs smart tools, smart technology and most of all a very smart workforce to maintain our competitive edge.

As we approach the turn of the century, it is more important than ever to ensure that students have access to the resources they need to pursue a postsecondary education. I worked my own way through college years ago, it was hard then and is more difficult today. I know that today times have changed and without adequate assistance through programs like work study, grants, and loans most students would not be able to complete their college education no matter their willingness to work full time as many did in a previous experience. Added to this is the fact that today most entry-level jobs barely pay a living wage, which is not enough anymore to fund today's higher tuition rates, the costs of books, and living expenses. This legislation could and should ensure that monetary aid would be available to keep the doors open to all students who otherwise would not have the resources to fund higher education opportunities.

The Pell grants increases and special loan programs included in this measure H.R. 6 are the vehicles which and have demonstrated their effectiveness and help to meet the need of today's and tomorrow's students. Another special aspect to highlight and which I feel is crucial to the competitiveness of our nation is technology training. H.R. 6 speaks specifically to this goal by providing funding for programs designed to promote such initiatives. As technology advances and touches so many areas of our lives—from the workplace to the marketplace to the classroom—it is increasingly imperative that today's teachers receive the training to effectively teach students not only rudimentary computer skills, but how to employ these skills effectively in accessing educational resources.

According to the Education Testing Service Assessment, most teachers have been in the workforce since before the computer age. Shockingly, 90 percent of new teachers, the majority of whom one might assume have grown up with computers—particularly during their years of higher education—do not feel prepared to use or effectively teach technology skills in their classrooms. Just as a dictionary may not be used as a resource by someone who is unable to read, computers in our classrooms are only useful when teachers are able to understand how they work and confidently apply this know-how in the classroom. The Higher Education Act recognizes this problem and provides for programs designed to implement the integration of technology into teaching and learning. I'm pleased to have helped initiate this policy in legislation which I've co-sponsored this session.

I specifically voice my opposition to the Riggs amendment which attempts to eliminate affirmative action. This amendment overreaches and would bar any legal initiative to achieve diversity in our higher education institutions, it's wrong and ought to be defeated. The bottom line is that Americans must have education and training they can afford, for the jobs and futures they merit and it must embrace the diversity of our US populace. Without educational opportunities, America's children face a future of lower employment, lower productivity, lower aspirations, and ultimately, a lower standard of living. This is certainly no way to prepare for a new Century. The federal government, prompted by Congress, can and will make a difference in meeting the challenge of change. By supporting higher education, we are investing in people, our nation's most valuable natural resource.

Mr. PAUL. Mr. Chairman, Congress should reject HR 6, the Higher Education Amendments of 1998 because it furthers the federal stranglehold over higher education. Instead of furthering federal control over education, Congress should focus on allowing Americans to devote more of their resources to higher education by dramatically reducing their taxes. There are numerous proposals to do this before this Congress. For example, the Higher Education Affordability and Availability Act (HR 2847), of which I am an original cosponsor, allows taxpayers to deposit up to $5,000 per year in a pre-paid tuition plan without having to pay tax on the interest earned, thus enabling more Americans to afford college. This is just one of the many fine proposals to reduce the tax burden on Americans so they can afford a higher education for themselves and/or their children. Other good ideas which I have supported are the PASS A+ accounts for higher education included in last year's budget, and the administration's HOPE scholarship proposal, of which I was amongst the few members of the majority to champion. Although the various plans I have supported differ in detail, they all share one crucial element. Each allows individuals the freedom to spend their own money on higher education rather than forcing taxpayers to rely on Washington to return to them some percentage of their tax dollars to spend as bureaucrats see fit.

Federal control inevitably accompanies federal funding because politicians cannot resist imposing their preferred solutions for perceived "problems" on institutions dependent upon taxpayer dollars. The prophetic soundness of those who spoke out against the creation of federal higher education programs in the 1960s because they would lead to federal control of higher education is demonstrated by numerous provisions in HR 6. Clearly, federal funding is being used as an excuse to tighten the federal noose around both higher and elementary education.

Federal spending, and thus federal control, are dramatically increased by HR 6. The entire bill has been scored as costing approximately $101 billion dollars over the next five years; an increase of over $10 billion from the levels a Democrat Congress authorized for Higher Education programs in 1991. Of course, actual spending for these programs may be greater, especially if the country experiences an economic downturn which increases the demand for federally-subsidized student loans.

Mr. Chairman, one particular objectionable feature of the Higher Education Amendments is that this act creates a number of new federal programs, some of which where added to the bill late at night when few members where present to object.

The most objectionable program is "teacher training." The Federal Government has no constitutional authority to dictate, or "encourage," states and localities to adopt certain methods of education. Yet, this Congress is preparing to authorize the federal government to bribe states, with monies the federal government should never have taken from the people in the first place, to adopt teacher training methods favored by a select group of DC-based congressmen and staffers.

As HR 6 was being drafted and marked-up, some Committee members did attempt to protect the interests of the taxpayers by refusing to support authorizing this program unless the spending was offset by cuts in other programs. Unfortunately, some members who might have otherwise opposed this program supported it at the Committee mark-up because of the offset.

While having an offset for the teacher training program is superior to authorizing a new

program, at least from an accounting perspective, supporting this program remains unacceptable for two reasons. First of all, just because the program is funded this year by reduced expenditures is no guarantee the same formula will be followed in future years. In fact, given the trend toward ever-higher expenditures in federal education programs, it is likely that the teacher training program will receive new funds over and above any offset contained in its authorizing legislation.

Second, and more importantly, the 10th amendment does not prohibit federal control of education without an offset, it prohibits all programs that centralize education regardless of how they are funded. Savings from defunded education programs should be used for education tax cuts and credits, not poured into new, unconstitutional programs.

Another unconstitutional interference in higher education within HR 6 is the provision creating new features mandates on institutes of higher education regarding the reporting of criminal incidents to the general public. Once again, the federal government is using its funding of higher education to impose unconstitutional mandates on colleges and universities.

Officials of the Texas-New Mexico Association of College and University Police Departments have raised concerns about some of the new requirements in this bill. Two provisions the association finds particularly objectionable are those mandating that campuses report incidents of arson and report students referred to disciplinary action on drug and alcohol charges. These officials are concerned these expanded requirements will lead to the reporting of minor offenses, such as lighting a fire in a trash can or a 19-year-old student caught in his room with a six-pack of beer as campus crimes, thus, distorting the true picture of the criminal activity level occurring on campus.

The association also objects to the requirement that campus make police and security logs available to the general public within two business days as this may not allow for an intelligent interpretation of the impact of the availability of the information and may compromise an investigation, cause the destruction of evidence, or the flight of an accomplice. Furthermore, reporting the general location, date, and time for a crime may identify victims against their will in cases of sexual assault, drug arrests, and burglary investigations. The informed views of those who deal with campus crime on a daily basis should be given their constitutional due rather than dictating to them the speculations of those who sit in Washington and presume to mandate a uniform reporting system for campus crimes.

Another offensive provision of the campus crime reporting section of the bill that has raised concerns in the higher education community is the mandate that any campus disciplinary proceeding alleging criminal misconduct shall be open. This provision may discourage victims, particularly women who have been sexually assaulted, from seeking redress through a campus disciplinary procedures for fear they will be put "on display." For example, in a recent case, a student in Miami University in Ohio explained that she chose to seek redress over a claim of sexual assault "* * * through the university, rather than the county prosecutor's office, so that she could avoid the publicity and personal discomfort of a prosecution * * *" Assaulting the privacy rights of victimized students by taking away the option of a campus disciplinary proceeding is not only an unconstitutional mandate but immoral.

This bill also contains a section authorizing special funding for programs in areas of so-called "national need" as designated by the Secretary of Education. This is little more than central planning, based on the fallacy that omnipotent "experts" can easily determine the correct allocation of education resources. However, basic economics teaches that a bureaucrat in Washington cannot determine "areas of national need." The only way to know this is through the interaction of students, colleges, employers, and consumers operating in a free-market, where individuals can decide what higher education is deserving of expending additional resources as indicated by employer workplace demand.

Mr. Chairman, the Higher Education Amendments of 1998 expand the unconstitutional role of the federal government in education by increasing federal control over higher education, as well as creating a new teacher training program. This bill represents more of the same, old "Washington knows best" philosophy that has so damaged American education over the past century. Congress should therefore reject this bill and instead join me in working to defund all unconstitutional programs and free Americans from the destructive tax and monetary policies of the past few decades, thus making higher education more readily available and more affordable for millions of Americans.

Mrs. MINK of Hawaii. Mr. Chairman, I rise today in support of H.R. 6 which reauthorizes the Higher Education Act of 1965.

Like the G.I. bill which provided a college opportunity to the returning WWII vets, the Higher Education Act has done more to expand post-secondary education than any other factor in our educational system or in society. The decision by the Congress in 1965 to make a college education a national priority has contributed to the economic success of our nation. Literally millions of students have been able to attain a college degree because of the federal grant and student loan programs authorized by the Higher Education Act. Most importantly these programs are targeted to disadvantaged students who would have no alternative means of paying for a college education.

H.R. 6 continues the goal of expanding educational opportunity for all students, it lowers the cost of borrowing under the student loan program, expands early intervention efforts and includes provisions to address the special needs of women students.

The cornerstone of the Higher Education Act is the Pell Grant program which provides up to $3,000 to help low-income students pay for college. The bill continues the commitment to the Pell Grant program by raising the authorized level of the maximum Pell Grant award from $3,000 in the school year 1998–99 to $5,100 by the year 2002.

The agreement reached on the student loan interest rate assures that the cost of borrowing student loans will be greatly reduced for students. The new interest rate will be around 5.83% in 1998 for a student in school and a rate of around 7.43% for a student in repayment. The agreement also assures that financial institutions will continue to participate in the student loan program so that students will have access to student loans through a variety of lenders.

Early intervention is also a key component of this legislation. We all know the benefits of existing programs such as TRIO, which assists at-risk high school students in achieving the academic tools necessary to attend college and providing support services such as tutoring and mentoring once they are in college to assure that they will stay in school.

H.R. 6 includes a strong commitment to the TRIO program by increasing the authorization to $800 million. Currently TRIO programs are funded at $530 million. We now have a goal to fund this program at its full $800 million authorization level, so that we can expand programs to reach those areas that do not have the benefit of TRIO.

We also added an important component to our early intervention efforts in the adoption of the High Hopes program, a Clinton Administration initiative which will fund a variety of early intervention efforts in middle schools in low income areas. This program will help close the gap between college enrollment among higher income families and low income families.

H.R. 6 also includes provisions designed specifically to address the needs of women students. The bill increases the allowance for child care expenses in a student's cost of attendance from $750 to $1,500. This provision recognizes the high cost of child care and the impact it has on the overall resources a parent has to attend school.

In another effort to assist students with young children, the bill authorizes $30 million for a new program to establish child care centers on college campuses. Also, I understand the Chairman of the Committee has agreed to include in his manager's amendment a grants for campus crime prevention. Unfortunately, women on college campuses are victims of violent crimes all to often. It is the responsibility of the institution to assist in making college safe for women. This grant program will assist in that effort.

Of particular concern to the University of Hawaii is the International Education programs in Title VI of this bill. I am pleased we were able to work out a compromise on the issue of including both the International Education and Graduate Education programs in the same Title. The International Programs appear in a separate Part to make clear that there is no intention of consolidation of these programs. International education plays an increasingly important role in our society and we must prepare our students to work in a global society.

Though I am in support of this bill, there are provisions that cause grave concern—specifically the elimination of the Patricia Roberts Harris Fellowship which is designed to give women and minorities with significant financial need opportunities in graduate education, particularly in the fields of study that women and

minorities have traditionally been under represented such as the engineering and sciences.

Although the committee intends this program to be consolidated in the Graduate Assistance Areas of National Need or GAANN program, I note that the GAANN program as amended by this bill has no component which assists women and minorities in fields in which they are under represented. The GAANN program if focused on provided assistance to those individuals who pursue fields of study in which there is a national need for more students. It has no focus on women or minority students. This is something I hope we can work out in conference.

Mr. Chairman, this bill moves us forward in expanding educational opportunities for our students. There has been much effort to make this a bi-partisan bill that everyone can be proud of. I urge my colleagues to support the reauthorization of the Higher Education Act.

Mr. BLUMENAUER. Mr. Chairman, I rise today in support of the Higher Education Amendments of 1998, H.R. 6, and the tremendous help this bill will provide to our nation's higher education system. The students of today will be the leaders of tomorrow, and we owe it to them to provide the best possible opportunities for furthering their education beyond high school. In the global economy of today, our children will need more and better skills to compete with their counterparts from around the world. Congress can significantly help this effort by providing low-cost loans, more scholarship opportunities, and programs that encourage partnerships among all levels of government and educational institutions.

There are a few provisions in H.R. 6 I would like to mention specifically that relate to the third district of Oregon which I represent. First is the Urban Community Service Grant program. Under this program, funds are made available to institutions to help link the assets of institutions such as Portland State University, attended by many of my constituents, to the needs of urban communities. This program is the only one in the Department of Education that speaks directly to urban institutions and has made a real difference for those institutions throughout the country.

PSU's project is community-based and focuses on urban ecosystems. It serves more than 1,000 schoolchildren and demonstrates that learning the basics about mathematics, science, and social studies can involve "real work" experiences through community service learning. In this project, curriculum topics arise from real issues identified by people in the community. As a result, students perceive their classroom experiences as relevant and are more motivated to participate in educational activities.

Some examples of the work students performed include:

Building and monitoring bird boxes for the Oregon Department of Fish and Wildlife;

Discussing Portland's infamous combined sewage overflow problem with residents and disconnection of downspouts to help alleviate the problem; and

Planting and maintaining a butterfly and bird garden.

Parents, the business community, local government, and nonprofit organizations are involved in and contribute to the program's success. Volunteers work with students in an urban ecosystems environment to apply the fundamentals of science and math to projects that make a difference to the community. This program is unique because it addresses middle school children—those who are at an age when they will either succeed or fail in school—and their families.

Second, I strongly support the Federal Financial aid provisions in the bill. I am pleased the bill "fixes" the independent student eligibility for Pell Grant issue. Last year's revisions to the tax code made one thing clear—access to higher education is key to the nation's ability to maintain economic competitiveness. Even more needs to be done to encourage those without financial resources to attend college. As Oregon's primary urban university, Portland State University serves many students who are independent or who have little or no family resources for a college education. At PSU, Federal financial aid means access. About 8,000 of our students receive financial aid, that's more than half of the student population. Clearly, more financial aid will mean more students will attend college.

I also support the bill's position on lowering the interest rate on Student loans. PSU students are increasing their indebtedness to get a college degree. Since 1986–87, student borrowing at PSU has increased from $7.7 million to $43.9 million. This is due to a number of factors—the cost of education has risen, funding for grants has not keep pace with inflation, and loans are now available primarily to middle and upper income students. Although loans are made available to families who don't have savings or other resources for higher education, soaring amounts of debt are still placed on our students. The high level of indebtedness now associated with attending college is of concern to both myself and my constituents.

I also support continued funding of the State student Incentive Grants (SSIG) program. This program is important because it provides needed financial aid dollars to low and working class students and it leverages state funds. While the Federal SSIG funds have declined, the Federal match is needed to help states maintain their commitment to providing state aid for students. At a time when states are facing tight budgets, the Federal match has prevented cuts in the states' share of financial aid. It has often made the difference to state legislatures around the country looking for ways to trim budgets.

However, I am concerned about any provision added to the bill which would have the Federal Government interfere with the ability of colleges and universities to choose students as they see fit, regardless of their racial or ethnic heritage. The Congress should take every precaution to not interfere into policies of this nature. Admission policies that take into account racial, ethnic and gender factors have widely been recognized as constitutional by the Supreme Court, and should not be subject to further congressional meddling. I am hopeful this bill is passed without such harmful provisions.

Mr. Chairman, this bill will go a long way toward addressing many students' needs in their pursuit of a college degree. It is the least we can do to prepare our children for the demands they will face in the real world. I urge my colleagues to support H.R. 6, and hope for the bill's speedy passage by the House.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILCHREST) having assumed the chair, Mr. GUTKNECHT, 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. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, pursuant to House Resolution 411, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

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

The amendment was agreed to.

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

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 4, not voting 14, as follows:

[Roll No. 135]

YEAS—414

Abercrombie	Boehner	Coble
Ackerman	Bonilla	Coburn
Aderholt	Bonior	Collins
Allen	Bono	Combest
Andrews	Borski	Condit
Archer	Boswell	Conyers
Armey	Boucher	Cook
Bachus	Boyd	Cooksey
Baesler	Brady	Costello
Baker	Brown (CA)	Cox
Baldacci	Brown (FL)	Coyne
Ballenger	Brown (OH)	Cramer
Barcia	Bryant	Crapo
Barr	Bunning	Cubin
Barrett (NE)	Burr	Cummings
Barrett (WI)	Burton	Cunningham
Bartlett	Buyer	Danner
Barton	Callahan	Davis (FL)
Bass	Calvert	Davis (IL)
Becerra	Camp	Davis (VA)
Bentsen	Canady	Deal
Bereuter	Cannon	DeFazio
Berman	Capps	DeGette
Berry	Cardin	Delahunt
Bilbray	Castle	DeLauro
Bilirakis	Chabot	DeLay
Bishop	Chambliss	Deutsch
Blagojevich	Chenoweth	Diaz-Balart
Bliley	Clay	Dickey
Blumenauer	Clayton	Dicks
Blunt	Clement	Dingell
Boehlert	Clyburn	Dixon

Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
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
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
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
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
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
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Sisisky
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
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—4

Campbell
Crane
Paul
Schaffer, Bob

NOT VOTING—14

Bateman
Carson
Christensen
Doyle
Gonzalez
Hastings (FL)
Lewis (CA)
McNulty
Neumann
Radanovich
Schaefer, Dan
Shuster
Skaggs
Yates

□ 2255

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6, HIGHER EDUCATION AMENDMENTS OF 1998

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 6, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 6.

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

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 2400, BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT OF 1998

The SPEAKER pro tempore. Without objection, the Chair announces the Speaker's appointment of the following conferees on H.R. 2400.

As additional conferees from the Committee on the Budget, for consideration of title VII and title X of the House bill and modifications committed to conference:

Messrs. PARKER, RADANOVICH, and SPRATT.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

PERSONAL EXPLANATION

Mr. DAVIS of Illinois. Mr. Speaker, I was unavoidably detained in my district yesterday, May 5, due to official business. As a result, I missed rollcall vote numbers 122 through 126.

However, had I been present, I would have voted no on rollcall 122; aye on rollcall number 123; aye on rollcall number 124; aye on rollcall number 125; and aye on rollcall number 126.

□ 2300

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. GILCHREST). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is important after the conclusion of today's debate on the Higher Education Act and specifically the debate that we had on both the Riggs and Campbell amendment to assess where we are and what that means. I am very pleased that the debate was not acrimonious but it was truthful. It expresses, I think, the overall commitment of this House to what really is equal opportunity and particularly in higher education.

Many times as we have debated the questions of affirmative action and equal opportunity, many voices would raise in citation of the words of Dr. Martin Luther King, that we should be judged not by the color of our skin but by the character within. Those words distort the value and the purpose of affirmative action and equal opportunity. For there is no doubt that we all strive to an even playing field. That even playing field has not arrived, for those who would argue that an amendment that would eliminate the ability to outreach and affirmatively act upon recruiting and soliciting minority students and women to institutions of higher learning deny the existence of past discrimination and existing discrimination.

The Riggs amendment and the Campbell amendment were likewise misdirected and distorted. My good colleague from California rose to the floor of the House and cited an example of the SAT scores. He started with a score in an Asian student that may have had a score of 760. He cited the score of a

white student, an Hispanic student, and he concluded with a score of an African-American student of 510 on the SATs. With that pronouncement, he proceeded to discuss the fact of why there should be any extra special effort to ensure that those students who did not have the higher scores be able to attend institutions of higher learning. I have an answer for him. What is the high moral ground? What does this country stand for? Does it suggest that students who do not have the money to pay to go to institutions of higher learning should become or remain uneducated, foolish, untrainable, the door of opportunity should be closed? Does it mean those students who live in rural America who might have a hard time getting transportation to institutions of higher learning, the door should be closed? In every instance, we reach out to try to help those who need the extra help, to get the promise of what America stands for. Both the Riggs amendment and the Campbell amendment missed the boat on what is right and what is the high moral ground.

We will continue to have these debates. We have an election in Seattle. We recently had an election in Houston, Texas where they were attempting to eliminate the affirmative action provisions in minority and small and women-owned businesses. We have had one in California. Unfortunately it was, I think, misconstrued by the voters and Proposition 209 passed. But the tragedy of Proposition 209 is evidenced by the sizable diminishing of those students from Hispanic and African-American backgrounds going to institutions of higher learning. We defeated Proposition A in Houston recognizing that once you understood what affirmative action actually stands for, affirmatively acting, affirmatively reaching out, affirmatively ensuring equal opportunity, that most Americans will join hands united in recognizing that this is the right way to go. I, too, join in the words of Dr. Martin Luther King. I wish for a society in which all of us are judged by the content of our character. But I do not believe that because you come from a Hispanic background, an African-American background, because you are a woman, because you come from a rural background and you need an extra measure of help that that in any way diminishes your character, suggests that you are not being judged by your character but in fact the color of your skin is negative and so you are being reached out to because of something negative rather than something positive.

Mr. Speaker, I simply hope that time after time these kinds of amendments reach the floor of the House, we will recognize that the right way to go is to some day to reach a point in America where there is no discrimination against Native Americans and Hispanics, African-American, Asians, whites, women, but we have not reached that point.

These amendments take away from what the full promise of this country stands for. I will always stand against them, I will argue with my colleagues and respect them for their difference, but each day I will demand that this House do the right thing.

As I do that, Mr. Speaker, let me also simply conclude by saying I want to join very briefly the gentleman from Michigan (Mr. CONYERS) in his opposition and concern finally for what I think have been misguided efforts and directions in investigations dealing with both Webb Hubbell, Ms. McDougal and the whole proceedings investigating the President.

CHANGES IN MEDICARE DECIMATE KANSAS HOME HEALTH CARE PROVIDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I rise this evening to address an issue of critical importance to people of Kansas and really the entire country. Several provisions buried in last year's Medicare bill are decimating home health care providers in Kansas and jeopardizing access to critical health care services to the sick and elderly in rural America.

Last year, in the effort to reduce spending, Congress made three crippling changes to Medicare reimbursement rates and regulations for home health care providers. First, the new interim payment system has slashed reimbursements to all agencies and is particularly discriminatory to agencies who have historically been the lowest cost, most efficient providers.

Second, the unrealistic requirements that all agencies, regardless of size, obtain $50,000 surety bond has been devastating. These bonds are expensive for many agencies and generally unavailable in most parts of the country. Even the Small Business Administration has acknowledged that there are great difficulties that many small agencies are experiencing in obtaining these bonds.

Finally, the loss of venipuncture reimbursement has added to the financial difficulties resulting in the closure of many agencies across the country, including Kansas. In our efforts to curtail fraud and wasteful spending, Congress went too far. Surely Congress did not intend to close down reputable and efficient providers of home health care services.

In rural Kansas, health care is not just a quality of life issue. It is a matter of survival. A home health care agency in a rural community is often the sole provider of services, the critical link between hospitals and independent personal recovery. These agencies give seniors the opportunity to recover in their own homes with their own families and save the Medicare program costly hospital or nursing home stays following each illness or injury. Rural providers and their patients are especially hurt by cuts in payments due to the high cost of providing these services in a rural setting. These cuts threaten to leave seniors without adequate care and without independence of home care.

I wholeheartedly support the goal of reforming Medicare. Unfortunately, the budget agreement penalized the very efficiency that Congress should be encouraging. Last year I was one of only a handful of Members to vote against the Medicare budget provisions, not because I opposed meaningful reforms in the Medicare program, but because, among other reasons, I opposed a payment system which rewarded waste and punished efficiency.

I urge my colleagues in the House to join me in calling for an immediate review of the home health care provisions in the Balanced Budget Act and to take action necessary to remedy this crisis. Yesterday legislation was introduced in the Senate to limit the surety bond requirements to new agencies while strengthening protection and oversight for fraud, waste and abuse, and legislation has been introduced in both Houses to modify the interim payment system and provide needed relief for home health care providers.

Mr. Speaker, these are the real reforms that the Medicare home health care program desperately needs. I urge my colleagues to reconsider this issue.

□ 2310

CHAIRMAN BURTON APOLOGIZES FOR HANDLING OF HUBBELL TAPES BUT REFUSES TO ADMIT ERROR

The SPEAKER pro tempore (Mr. GILCHREST). Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, today we have learned that the Chairman of the House Committee on Government Reform and Oversight has fired his chief investigator and apologized to his fellow Republicans for any embarrassment caused by his actions in releasing distorted summaries of telephone conversations between Mr. Hubbell and his wife.

If the chairman now recognizes that the actions taken by his committee were wrong, the gentleman from Indiana (Mr. BURTON) also owes an apology to Mr. and Mrs. Hubbell as well as the President and the First Lady. The release of those summaries as well as the tapes themselves represents something

that may be truly unprecedented in the House of Representatives: the elevation of partisanship over the sanctity of the privacy of conversations between a husband and wife.

This is such a profound affront to most people's sensibilities and the values that we hold dear that it raises new questions about whether the gentleman from Indiana (Mr. BURTON) can or ought to continue to lead that committee's investigation into alleged campaign finance violations.

Chairman BURTON's continuing release of the private telephone conversations of Mr. Hubbell, including conversations with his wife and his attorney, appear to represent a serious abuse of government power intended to humiliate Mr. Hubbell because of his prior association with the Clinton administration.

Have we really reached the point where we think it is appropriate to publicly broadcast intimate conversations, most of which have nothing to do with the allegations of campaign finance violations, between a man and his wife? If we are concerned about family values, Congress should support the privacy of marital relationships, not make them public.

Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. I would say to the gentleman from Michigan, we know that in prior Congresses you had the occasion to chair this committee of the House. Can you tell us from your personal experience of having served in the Congress more than 30 years any recollection on your part of the conduct of this particular chairman of this committee in the investigation of such a serious matter?

Mr. CONYERS. Well, we do not have enough time to discuss the conduct of the chairman of the committee, but I can tell you that never in any committee can I recall to the Members of the body that we went into privacy and violated the spirit of privacy laws in the way that they have been done now. And there was a curious coincidence between the release of information from the special prosecutor and the release of these tapes. The chairman, a friend, his own chief counsel, advised him not to release the tapes, but he did so anyway. The Speaker of the House of Representatives publicly stated that a third party should screen the tapes for privacy issues before further releases were made. What did the committee do? It continued to release more tapes.

So almost daily, the impression continues to grow that the gentleman from Indiana (Mr. BURTON) or his committee is simply out of control. If the chairman's goal is simply to get at the truth, then there was no need to doctor the tapes.

Considering all of this, along with the chairman's recent public statement that he was after, quote-unquote, the President, President Clinton, how can the important investigative work of the committee lead to any findings that will be accepted as legitimate by the public?

I would appeal to the higher instincts of the gentleman from Indiana (Mr. BURTON) to apologize to the Hubbells and to the President and to the First Lady.

HIGHLIGHTS OF THE HIGHER EDUCATION AMENDMENTS OF 1998

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to discuss the very important legislation which was just adopted in the House, speaking of the Higher Education Amendments of 1998 which we passed this evening. This will reverse the current trend where it has been more difficult for many students to get into college because of financial reasons, and this is because college will be more affordable under our new amendments. It will simplify the student aid system and improve academic quality. In doing so, our bill enhances the freedom of Americans to live the American dream, rewards Americans who are willing to take responsibility for themselves in the future and restores accountability to the Nation's higher education programs.

Higher education amendments make college more affordable by rescuing the student loan program and, in turn, providing students with the lowest interest rate in 17 years. Specifically, this provision ensures that private banks stay in the student loan program. Without it the student loan program would eventually collapse and college students would be left without the borrowing power which they need to finance their education.

The higher ed bill makes college more affordable for students from disadvantaged backgrounds. It expands the Pell grant program which provides higher education vouchers for needy students and improves campus-based aid programs like the supplemental education opportunity grants, work-study and the Perkins loans, and strengthens international and graduate education.

Mr. Speaker, it also brings much needed reforms to the TRIO program to help disadvantaged children prepare for college while still in their teens. Specifically the bill increases the maximum allowable Pell grant for students from the current $3,000 to $4,500 per student for academic year 1999, and the grants gradually increase to $5,300 in the year 2003 to 2004.

Furthermore, the bill acknowledges sacrifices rendered by making college more affordable for those who serve in the U.S. Armed forces. Specifically it exempts veterans' benefits from being counted against students when they apply for financial aid.

This legislation holds colleges and universities accountable for tuition increases. Under the bill, colleges and universities are required to develop clear standards for reporting college costs and prices for both undergraduate and graduate education.

It also simplifies the student aid system. The Higher Education Amendments of 1998, which we just voted upon, offers students a way out by making the student aid process more user-friendly, incorporating sales management principles into student aid programs, and cutting red tape and bureaucracy.

One of the most important parts of this bill, Mr. Speaker, was the Foley amendment which requires that crime statistics be available to those who apply to colleges. I have in my own district a heroine, Connie Cleary, who has been working for many years to make sure that colleges report such security information. Her daughter was tragically murdered on a college campus. She and her husband have dedicated their lives to making sure that every college parent and student knows exactly what the security situation is at each university, so that together we can make our campuses safer and to make sure that individuals who attend schools have every piece of knowledge they should know about the campus in making an informed choice.

This bill is a positive bill. I believe it is going to help more students attend college and be able to financially afford to achieve their dream and then go on to get the job which best suits the academic challenges they have met.

□ 2320

FAULTY PROCEDURES OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. KANJORSKI) is recognized for 5 minutes.

Mr. KANJORSKI. Mr. Speaker, I know the hour is late. It is a pleasure to follow my good friend from Michigan (Mr. CONYERS), the former chairman of the House Operations Committee, now the Committee on Government Reform and Oversight of the House of Representatives.

On the same issue that the gentleman from Michigan (Mr. CONYERS) recently addressed the House on, I would just like to spell out some of my thoughts in regards to the exercise of the authority of the committee and the chairing of the committee, particularly in the last several months.

Mr. Speaker, the House of Representatives, in passing the resolution directing the Committee on Government Reform and Oversight to examine the

election practices in the presidential and congressional elections of 1996, invested in the Committee on Government Reform and Oversight a very unusual power and instruction. I dare say, although this was a political issue from the standpoint it involved political campaigns and supposedly both parties that were engaged in the campaign of 1996, my observations were that both on the majority and the minority side, originally there was some expression of intent to do a serious, credible investigation and examination; not a persecution or a politically motivated investigation, but something that would give insight to the Members of this House and to the American people of a very serious problem, and that problem is the prostitution of the American political system and campaigns, which is fast overwhelming this Nation as experienced in 1996.

As we met to organize and to identify our mission, it seemed that very early on many of us on the minority side of the committee were fast realizing that there was an extraordinary power, the power of subpoena that was going to be vested in the Chairman without the need for clearing a subpoena through the ranking member or to going to the full committee that would normally have some input in the exercise of the issuance of a subpoena. I thought that was strange, and to my own mind and to others I remarked at the time that as a result of this unusual power being vested in the chairman, he would become the most powerful American citizen in the United States. No other individual in the United States could, by merely signing a subpoena, command the presence, the records, the examination of all of the personal papers of any American citizen.

We cautioned the chairman that it may be wise to carry on prior practices, both of the Committee of Oversight and Investigation, and the experiences of the Watergate committee, the Thompson committee in the Senate, and that was that when an individual is going to be issued a subpoena, it should come to the full committee to be disclosed, or at least to the ranking member so that a discussion can be had; and when agreement was reached, the subpoena would issue. If there was disagreement, it would come to the full committee and the full committee would cast a vote with the majority of the committee controlling the outcome as to whether the subpoena should issue.

Instead of doing that, the chairman received, without limitation, by vote of the majority of the committee, that he in his own right, without consultation and without consent from the committee, and without contest by the rest of the committee, could issue at will subpoenas to many citizens in the country.

Mr. Speaker, I think nearly 1,000 such subpoenas were issued. Some of them were so grossly and improperly issued that because the surname of the individual who was named in the subpoena was of Chinese American origin, there was a professor at the University of Georgetown that had his bank records seized, even though he had nothing to do with the campaign and was, in fact, an entirely different person. We called that very strongly to the attention of the chairman and he dismissed that.

About 5 months ago, we had a vote to immunize six witnesses before the committee. At that time we were assured that they would offer testimony that was necessary to the committee. In fact, that immunization of those witnesses allowed an individual to escape prosecution by getting immunity from that committee

ROLE OF PAKISTAN IN THE TRANSFER AND PROLIFERATION OF NUCLEAR WEAPONS AND DELIVERY SYSTEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I want to stress my concern this evening over the continued role of Pakistan in the transfer and proliferation of nuclear weapons and delivery systems.

Last month, the U.S. State Department determined that sanctions should be imposed on Pakistan pursuant to the Arms Export Control Act, and this decision comes in the wake of a determination that entities in Pakistan and North Korea have engaged in missile technology proliferation activities.

According to the notice published in the Federal Register on May 4 of this year, Khan Research Laboratories in Pakistan and the North Korean Mining Development Trading Corporation are subject to sanctions, including denial of export licenses, a ban on U.S. Government contracts with these entities, and a ban on importation to the U.S. of products produced by these two entities. The sanctions are in effect for 2 years.

Now, although these sanctions seem relatively modest, I still want to applaud the Clinton administration for imposing the sanctions on these companies. I hope that enforcement efforts against these and other firms involved in the proliferation of missile technology will remain strong.

As if this recent disclosure, though, about Pakistani nuclear missile technology with North Korea was not shocking enough, there are reports this week that the International Atomic Energy Agency, or the IAEA, is investigating whether a leading Pakistani scientist offered Iraq plans for nuclear weapons. The information, first reported in Newsweek Magazine, has been confirmed by the IAEA. According to the report, in October of 1990, prior to the Persian Gulf War, but after the Iraqi invasion of Kuwait, while our troops were massing in Saudi Arabia under Operation Dessert Shield, a memorandum from Iraqi's intelligence service to its nuclear weapons directorate mentioned that Abdul Qadeer Khan, the Pakistani scientist, offered help to Iraq to "manufacture a nuclear weapon." The document was among those turned over by Iraq after the 1995 defection of Saddam Hussein's son-in-law, Lieutenant General Hussein Kamel, who ran Iraq's secret weapons program.

The Pakistani Government has denied the report and the IAEA has not yet made any determination, but this report is part of a very troubling pattern involving Pakistan in efforts to obtain nuclear weapons and delivery systems or to share this technology with unstable regimes.

Recently, Pakistan tested a new missile known as the Ghauri, a missile with a range of 950 miles, sufficient to pose significant security threats to India and to launch a new round in the south Asian arms race. I am pleased that the recently elected Government of India has demonstrated considerable restraint in light of this threatening new development.

While I welcome the sanctions against North Korea, I remain very concerned that China is also known to have transferred nuclear technology to Pakistan. Our administration has certified that it will allow transfers of nuclear technology to China, a move I continue to strongly oppose.

Mr. Speaker, for years many of our top diplomatic and national security officials have advocated a policy of appeasement of Pakistan, citing that country's strategic location. But I think the time has long since passed for us to reassess our relationship with Pakistan. The two developments I cite today are only the latest developments. North Korea, the last bastion of Stalinism, is also one of the most potentially dangerous nations on Earth and the U.S. has been trying to pursue policies to lessen the threat of nuclear proliferation from North Korea, but now we see that Pakistan is cooperating with North Korea on missile technology.

Mr. Speaker, we do not need to be reminded of American concerns over Saddam's regime in Iraq. Now credible reports have surfaced suggesting the possibility of nuclear cooperation between Iraq and a top Pakistani scientist. Concerns about Pakistani nuclear weapons proliferation efforts have been a concern for U.S. policymakers for more than a decade. In 1985 the Congress amended the Foreign Assistance Act to prohibit all U.S. aid to

Pakistan if the President failed to certify that Pakistan did not have nuclear explosive devices.

□ 2330

This is known as the Pressler amendment. And it was invoked in 1990 by President Bush when it became impossible to make such a certification. The law has been in force since, but we have seen ongoing efforts to weaken the Pressler amendment, including a provision in the fiscal year 1998 Foreign Operations Appropriations Bill that carves out certain exemptions to the law.

Several years ago, $370 million worth of U.S. conventional weapons to Pakistan, which had been tied up in the pipeline since the Pressler amendment was invoked, was shipped to Pakistan. There is also the specter of U.S. F–16s, the delivery of which were also held up by the Pressler amendment, being delivered to Pakistan.

Mr. Speaker, in conclusion, I want to say that Pakistan has continued to take actions that destabilize the region and the world. Providing and obtaining weapons and nuclear technology from authoritarian, often unstable regimes, is a pattern of Pakistani policy that is unacceptable to U.S. interests and the goal of stability in Asia.

Pakistan is a country that faces severe development problems and really they should not be involved in this continued proliferation of nuclear weapons.

Its people would be much better served if their leaders focused on growing the economy, promoting trade and investment and fostering democracy. U.S. policy needs to be much stronger in terms of discouraging the continued trend toward destabilization and weapons proliferation that the Pakistani government continues to engage in.

ACTIONS TAKEN BY THE BURTON COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. BARRETT) is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, the hour is late. There has been much fanfare this week in Washington over the Burton committee, and the actions that were taken by the chairman of that committee. I just want to reflect on those actions and reflect on that committee which I have served on for the last 5½ years.

My first two years, I served under the gentleman from Michigan (Mr. CONYERS), who is here with us tonight and who has spoken about this issue earlier. For two years Mr. CLINGER headed the committee and the gentleman from Indiana (Mr. BURTON) has headed this committee for the last year and a half.

Earlier this week and late last week there was much criticism of the 19 Democrats on that committee who had voted against immunity. I was one of those Democrats and I am 100 percent comfortable with my vote. There are many times when it is difficult when legislators have to think about whether they are doing the right thing or the wrong thing, and believe it or not, legislators sometimes actually think about this and they are concerned about whether they are doing the right thing or the wrong thing.

I am very confident that what we did on that committee was the right thing to do. And I just want to take a minute to explain the concerns that I and other Members of that committee have had.

First, I have to go back a year and a half when the committee was formed and started this investigation. We argued that there were problems, and that there are problems, but those problems did not occur exclusively on the Democratic side of the aisle and if we were going to have a true investigation, it should be an investigation in the fund-raising practices of both the Democrats and the Republicans.

We were realistic because we realized that the gentleman from Indiana (Mr. BURTON), who had a reputation of being highly partisan, would not go along with that. And we recognized that he was the man who held the gavel and that he could do what he wanted, so we had to live with that. And I understand that and I accept that.

But I expected and I think that the other committee members expected the one thing that is imperative for any committee chairman in this building, and that is that the person is fair. And that is where this committee has failed miserably because I do not think that the chairman or the committee have run a fair investigation.

We have had other complaints over the last year and a half, but time and time again the chairman said, well, this is the way that I am going to run the committee, and basically squashed the complaints of the minority. Again, we lived with that because we understand the rules.

But it was two weeks ago when the chairman made a statement in his home town that was the straw that broke this camel's back, because he used a phrase in describing the President that I frankly am not comfortable in mentioning in public. And he said, "That is why I am out to get the President."

Now, when someone is a member of the committee and walks into that committee room and knows that the chairman's goal is to get the President, they lose all belief in the system that he is running because he has basically publicly said that he is not interested in running an investigation to look for truth. What he is interested in is getting the President.

Back in October before he made those statements, I and every other Member of that committee, every other Democrat on that committee, had voted for immunity for several witnesses. As it turned out, one of those witnesses should not have received immunity because of other legal problems that he had. But we went along with the committee chairman because we felt that we had to be acting in good faith and we had to act fairly.

But when the committee chairman says that he is out to get the President, from the perspective of this Member all the credibility of that committee is gone. It is impossible for me to have confidence in this committee, when I know that the goal of this committee chairman is to get the President.

It is not an attempt to find the truth, it is not an attempt to be fair, it is not an attempt to listen to all Members, and I think what we have seen with some of the committee staff reflects that.

Last year one of the leading employees on that committee left because of the tactics of the committee. As was mentioned earlier, the head legal counsel of the committee earlier this week advised Chairman BURTON not to release the tapes, the Hubbell tapes and he did. I respect Mr. Bennett, who is the lead counsel, and I think he was trying to do the right thing.

But any doubts that anyone could have over whether we did the right thing in voting against immunity I think had to be really put to the side when we talk about the actions that took place this last weekend. When Chairman BURTON released portions of tapes and only those portions that tended to incriminate the President or tried to incriminate the President, but did not release portions of the tapes that would have showed the other side of the story, he showed not only to the committee members, not only to the members of this body, but he showed to the entire American public that this is not a search for the truth because if it were a search for the truth he would have released all relevant parts of those telephone conversations. He would not have excluded those portions of the conversations that tended to exonerate the President. But again that was not the purpose and that has never been the purpose of this committee, and that is why I feel comfortable with what we are doing.

RELIGIOUS FREEDOM THREATENED BY PROPOSED CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas (Mr. EDWARDS) is recognized for half the time between now and midnight as the designee of the minority leader.

Mr. EDWARDS. Mr. Speaker, I am here tonight to discuss an issue that is

of critical importance to our Nation and to every American family. The issue is religious freedom. Specifically, I want to comment on Federal legislation that I believe will do great damage to our Bill of Rights and to the cause of religious liberty.

The gentleman from Oklahoma (Mr. ISTOOK) has introduced a constitutional amendment that, if passed into law, would for the first time in our Nation's history amend our cherished Bill of Rights, which has for over 200 years protected Americans' religious, political and individual rights.

The House could vote on this amendment as early as next month. The gentleman from Oklahoma has mislabeled his work the Religious Freedom Amendment. More appropriately, it should be called the Religious Freedom Destruction Amendment.

That is why so many religious organizations such as the Baptist Joint Committee, the American Jewish Congress and the United Methodist Church are strongly opposing the Istook amendment. In fact, these and many other religious organizations and education groups, known as the Coalition to Preserve Religious Liberty, are opposing the Istook amendment because it will harm religious freedom in America.

In my opinion, Mr. Speaker, the Istook amendment is the worst piece of legislation that I have seen in 15 years in public office. It is dangerous because it threatens our core religious rights and literally tears down its 200-year-old wall that our Founding Fathers built to protect religion from intrusion by government.

That is why I have been active and will continue to be active in the bipartisan coalition of House Members and religious leaders to defeat this ill-designed measure.

Mr. Speaker, the Istook amendment would allow satanic prayers, it would allow animal sacrifices to be performed in public schoolrooms, even in elementary schools with small children. It would step on the rights of religious minorities and allow government facilities to become billboards for religious cults.

Mr. Speaker, America already has a religious freedom amendment. It is called the First Amendment to the U.S. Constitution. It is the first pillar of the Bill of Rights. It is the sacred foundation of all our freedoms.

The first amendment begins with these cherished words: Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

For over two centuries that simple but profound statement has been the guardian of religious liberty, which is perhaps the greatest single contribution of the American experiment in democracy.

□ 2340

To tamper with the First Amendment of our Bill of Rights has profound implications. In the name of furthering religion, the Istook amendment would harm religion. In the name of protecting religious liberty, it would damage religious freedom.

With no disrespect intended, if I must choose between Madison, Jefferson, and our Founding Fathers versus the gentleman from Oklahoma (Mr. ISTOOK) on the issue of protecting our religious liberty, I shall stand with Madison, with Jefferson, and our Founding Fathers. I shall stand in the defense of our Bill of Rights.

Mr. Speaker, if history has taught us nothing else, it has taught us that the best way to ruin religion is to politicize it. Our Founding Fathers did not mention God in our Constitution, not out of disrespect, but out of total reverence. It is that same sense of reverence that should move us in this House to protect the First Amendment, not dismantle it.

Some have suggested that the Istook amendment is necessary because they allege that "God has been taken out of public places and schoolhouses." I would suggest those people must not share my belief that no human has the power to remove an all-powerful ever-present God from any place on this Earth.

The fact is that there is no law in America that prohibits all prayers in our school. It has been said that "as long as there are math tests, there will be prayers in school." I agree. Under present law, schoolchildren may pray silently in school or even out loud, as long as they do not disturb the class work of others or participate in government-sanctioned prayer.

Children can say grace over their school lunches and, if they wish, pray around the flagpole before and after school. In fact, before and after school, prayer groups have been established at hundreds of schools all across America, and these numbers are increasing every day.

The April 27 copy of Time Magazine of this year documents that voluntary prayer is alive and well in American schools. Mr. Speaker, I include that article in the record this evening.

Under the Bill of Rights, as it should be, government resources cannot be used to force religion upon our schoolchildren against the wishes of their parents or against the wishes of the students themselves. What the Bill of Rights does prohibit is government-sponsored prayer, and thank goodness it does.

Our Founding Fathers were wise to separate church and State in the very First Amendment, in the very first words of the Bill of Rights. Religious freedom flourishes in America today precisely because of our wall of separation between church and State.

Islamic fundamentalism seen in the Middle East today is a clear example of how religious rights are trampled upon when government gets involved in religion.

In the weeks ahead, I urge Americans to look beyond the sound bite rhetoric of the Istook amendment and to ask yourselves this question: Should prayer be an individual right or a government program?

Whether I am in office for 2 more years or 10 more years, there never has been and never will be an issue more important to me than protecting religious liberty by defeating the Istook amendment.

Our Bill of Rights is one of the greatest political documents in the history of the world. We cannot allow the gentleman from Oklahoma (Mr. ISTOOK) in sound bite politics or anything else, for that matter, to dismantle it.

First, let me say, too, that there should be an enormous burden of proof placed upon anyone wanting to amend the first words of the First Amendment of our Bill of Rights. The document has not been amended even a single time since its adoption, as I said, over two centuries ago.

There can be no more sacred freedom than the freedom of religion. To tamper with it is a grave undertaking. Frankly, I would have hoped that, prior to any vote on amending the Bill of Rights, this Congress would have had hearings more extensive than any other hearings past or present in the history of the Congress.

Unfortunately, that has not happened. In fact, in 1998, and this is hard to believe, in 1998, there has only been one day of hearings on the Istook amendment to amend the Bill of Rights for the first time in our country's history.

Regardless of one's view on the Istook amendment to have a vote changing the Bill of Rights with less review than Whitewater, campaign finance, or even the Branch Davidian hearings I believe would be an injustice to our Bill of Rights, our Founding Fathers, and all who cherish religious liberty.

It would be tragic to set a precedent in this House that amending the Bill of Rights deserves a less careful review than any other issue before this Congress or any Congress.

As Mr. ISTOOK and his supporters try to meet their burden of proof in arguing that the Bill of Rights is flawed, I hope they will follow the Ninth Commandment.

For example, many proponents of this measure have failed to point out the Ellen Pearson school bus story about a student who was told that she could not read a Bible or bring a Bible on the school bus. They use that as a reason to amend the Bill of Rights, but yet they forget to point out that that problem was solved with one phone call

to a school principal in 1989, hardly a reason to amend a bill of rights in 1998.

Mr. Speaker, I believe the American people have the right to know that, under the Istook amendment, seven, eight, nine, ten-year-old schoolchildren could be subjected to satanic prayers in their public schools.

Let me read an example of what our children could be exposed to under the Istook amendment, a satanic prayer:

I am a born satanist. I am a happy little blob of custard and you cannot nail me to any wall; in fact, I would pull those nails out and aim them at you. Tell me how negative I am. Tell me how I am filled with hate. You are not just stupid. You are wrong. Dracula loved his bride. Dr. Frankenstein loved his monster. My satanic love burns fiercely. It is perfect and uncompromising.

Maybe Mr. ISTOOK would not mind his children being exposed to that satanic prayer and others like it in our public schools, our tax-supported schools, but I would be offended if my two young sons someday are exposed to witchcraft, satanic, or cult prayers in the public schools of Waco, Texas.

Therein lies the unanswered dilemma, the unanswerable, in fact, dilemma of the Istook amendment that allows student-initiated prayer. Either you expose young impressionable children in first and second and third and fourth and fifth grades in public school classrooms to satanic and all other types of prayers from thousands of religious sects and cults, or, on the other hand, you allow 10-year-old children in elementary schools to be the censors and selectors of permissible prayers and the guardians of America's religious rights.

Under the Istook amendment, would 10-year-olds set up prayer selection committees? Would 10-year-olds create prayer appeals committees? Would eight, nine, and 10-year-olds be expected to balance majority views with minority rights as written in our Constitution through the Bill of Rights?

What if one's religion, such as the Santerias, involves animal sacrifices? Would that be allowed, cutting off the heads of chickens in the classrooms as part of a prayer ritual? Which 10-year-olds would be forced or allowed to make that decision in our public schools? Could school administrators be allowed to override that 10-year-old student's decision? If so, where do we then draw the line on government officials reviewing what is and is not a permissible prayer?

Mr. Speaker, until these and hundreds of other questions are answered concerning the Istook amendment, I would suggest we would do well to follow the wisdom of Jefferson, Madison, and our Founding Fathers and protect, not dismantle, the First Amendment to our Bill of Rights.

I think Thomas Jefferson said it better than I could ever imagine when he said this in his letter to the Danbury Baptists, "Religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or worship; that the legislative powers of government reach actions only and not opinions."

I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion or prohibiting the free exercise thereof, thus building a wall of separation between church and State."

Mr. Speaker, I think it is interesting that the other day the gentleman from Oklahoma (Mr. ISTOOK) in supporting his constitutional amendment that, in my opinion would destroy an important part of the Bill of Rights, he suggested that those who were opposing his amendment of the Bill of Rights were "demagogues".

Let me suggest, I do not know about whom the gentleman from Oklahoma was suggesting, but if you want to call those demagogues opposing the Istook amendment, you are going to have to include the Baptists, you are going to have to include the Methodists, you are going to have to include Jewish organizations across America, and dozens and dozens of other devout religious organizations who oppose the Istook amendment specifically because of their belief in the reverence of religious liberty in America.

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On April 22, just a few days ago, the Baptist Standard said this: "The Baptist Standard remains a strict advocate of the separation of church and State. The first amendment has served us well. We don't need the Religious Freedom Amendment."

Finally, Mr. Speaker, and there are so many other issues that I hope we can discuss on the floor of this House in the weeks leading up to a vote on the Istook amendment, and I would urge the other side to agree to our recommendation or request that we have an open debate, it seems to me the least we owe, the Congress to the American people, is to have an open dialogue, an open discussion and not just one person's debate in the late hours of the evening, which the other side has been doing recently to discuss the pros and cons of amending the first 16 words of the Bill of Rights.

My concern about this Istook amendment, among many other things, goes to a statement that was made right here on the floor of this House last evening when the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Georgia (Mr. KINGSTON) were discussing this amendment. The gentleman from Oklahoma had listed a series of Federal Court decisions where he disagreed with the judge's opinion that we should, in Thomas Jefferson's words, have separation of church and State in America. The gentleman from Georgia (Mr. KINGSTON) then replied in this way. He said, "Mr. Speaker, there is no doubt in my mind that there is a special place in hell for a number of Federal court judges, as I am sure there will be for Members of Congress."

I hope the gentleman from Georgia will come to the floor of this House and explain that statement, because it appears to me that in the context in which it was given, he was suggesting that because certain Federal judges happen to disagree with the gentleman from Oklahoma and the gentleman from Georgia, and happen to agree with Thomas Jefferson and James Madison, that somehow there would be a special place in hell reserved for not only those Federal judges but perhaps for Members of Congress that would agree with our Founding Fathers that the best way to protect religion is to keep government out of religious affairs.

Mr. Speaker, I think it is this kind of thinking that will create divisive debate around this country if the proponents of the Istook amendment would continue to suggest, as they did last night, that if we agree with certain views of church and State issues, somehow we have a special place in heaven; and somehow if we disagree with those people's opinions, somehow we will have a special place in hell reserved for us.

I do not think this country needs that kind of religious divisiveness, and I would suggest, Mr. Speaker, that kind of divisiveness that was part of the debate on the floor of this House last night will be replicated in thousands of schoolhouses across America as we have fights over who gets how many minutes to give which prayer in 1st grade classrooms and 5th grade classrooms and 12th grade classrooms, public classrooms in America's schools.

So for those reasons, Mr. Speaker, and for many, many more that I will have the privilege to discuss in the weeks ahead, I would urge the Members of this Congress and the American people to think carefully before we buy into the sound-bite rhetoric of the Istook constitutional amendment; that we should think seriously before we change what our Founding Fathers carefully designed as the very first 16 words of our Bill of Rights, to defend religious freedom.

I think this will be the most important debate of this Congress, and I hope this Congress will give it serious consideration and ultimately the defeat that it deserves.

[From Time, Apr. 27, 1998]

SPIRITING PRAYER INTO SCHOOL

(By David Van Biema)

On an overcast afternoon, in a modest room in Minneapolis, 23 teenagers are in earnest conversation with one another—and with the Lord. "Would you pray for my brother so that he can raise money to go [on a preaching trip] to Mexico?" asks a young woman. "Our church group is visiting juvenile-detention centers, and some are scared

to go," explains a boy. "Pray that God will lay a burden on people's hearts for this."

"Pray for the food drive," says someone.

"There's one teacher goin' psycho because kids are not turning in their homework and stuff. She's thinking of quitting, and she's a real good teacher."

"We need to pray for all the teachers in the school who aren't Christians," comes a voice from the back.

And they do. Clad in wristbands that read W.W.J.D. ("What Would Jesus Do?") and T shirts that declare UPON THIS ROCK I WILL BUILD MY CHURCH, the kids sing Christian songs, discuss Scripture and work to memorize the week's Bible verse, *John 15: 5* ("I am the vine and you are the branches"). Hours pass. As night falls, the group enjoys one last mass hug and finally leaves its makeshift chapel—room 133 of Patrick Henry High School. Yes, a public high school. If you are between ages 25 and 45, your school days were not like this. In 1963 the Supreme Court issued a landmark ruling banning compulsory prayer in public schools. After that, any worship on school premises, let alone a prayer club, was widely understood as forbidden. But for the past few years, thanks to a subsequent court case, such groups not only have been legal but have become legion.

The clubs' explosive spread coincides with a more radical but so far less successful movement for a complete overturn of the 1963 ruling. On the federal level is the Religious Freedom amendment, a constitutional revision proposed by House Republican Ernest Istook of Oklahoma, which would reinstate full-scale school prayer. It passed the Judiciary Committee, 16 to 11, last month but will probably fare less well when the full House votes in May. One of many local battlefields is Alabama, where last week the state senate passed a bill mandating a daily moment of silence—a response to a 1997 federal ruling voiding an earlier state proschool prayer law. Governor Fob James is expected to sign the bill into law, triggering the inevitable church-state court challenge.

But members of prayer clubs like the one at Patrick Henry High aren't waiting for the conclusion of such epic struggles. They have already brought worship back to public school campuses, although with some state-imposed limitations. Available statistics are approximate, but they suggest that there are clubs in as many as 1 out of every 4 public schools in the country. In some areas the tally is much higher: evangelicals in Minneapolis-St. Paul claim that the vast majority of high schools in the Twin Cities region have a Christian group. Says Benny Proffitt, a Southern Baptist youth-club planter: "We had no idea in the early '90s that the response would be so great. We believe that if we are to see America's young people come to Christ and America turn around, it's going to happen through our schools, not our churches." Once a religious scorched-earth zone, the schoolyard is suddenly fertile ground for both Vine and Branches.

The turnabout culminates a quarter-century of legislative and legal maneuvering. The 1963 Supreme Court decision and its broad-brush enforcement by school administrators infuriated conservative Christians, who gradually developed enough clout to force Congress to make a change. The resulting Equal Access Act of 1984 required any federally funded secondary school to permit religious meetings if the schools allowed other clubs not related to curriculum, such as public-service Key Clubs. The crucial rule was that the prayer clubs had to be voluntary, student-run and not convened during class time.

Early drafts of the act were specifically pro-Christian. Ultimately, however, its argument was stated in pure civil-libertarian terms; prayers that would be coercive if required of all students during class are protected free speech if they are just one more after-school activity. Nevertheless, recalls Marc Stern, a staff lawyer with the American Jewish Congress, "there was great fear that this would serve the base for very intrusive and aggressive proselytizing." Accordingly, Stern's group and other organizations challenged the law—only to see it sustained, 8 to 1, by the Supreme Court in 1990. Bill Clinton apparently agreed with the court. The President remains opposed to compulsory school prayer. But in a July 1995 speech he announced that "nothing in the First Amendment converts our public schools into religion-free zones or requires all religious expression to be left at the schoolhouse door." A month later Clinton had the Department of Education issue a memo to public school superintendents that appeared to expand Equal Access Act protections to include public-address announcements of religious gatherings and meetings at lunchtime and recess.

Evangelicals had already seized the moment. Within a year of the 1990 court decision, prayer clubs bloomed spontaneously on a thousand high school campuses. Fast on their heels came adult organizations dedicated to encouraging more. Proffitt's Tennessee-based organization, First Priority, founded in 1995, coordinates interchurch groups in 162 cities working with clubs in 3,000 schools. The San Diego-based National Network of Youth Ministries has launched "Challenge 2000," which pledges to bring the Christian gospel "to every kid on every secondary campus in every community in our nation by the year 2000." It also promotes a phenomenon called "See You at the Pole," encouraging Christian students countrywide to gather around their school flagpoles on the third Wednesday of each September; last year, 3 million students participated. Adult groups provide club handbooks, workshops for student leaders and ongoing advice. Network of Youth Ministries leader Paul Fleischmann stresses that the resulting clubs are "adult supported," not adult-run. "If we went away," he says, "they'd still do it."

The club at Patrick Henry High certainly would. The group was founded two years ago with encouragement but no specific stage managing by local youth pastors. This afternoon its faculty adviser, a math teacher and Evangelical Free Church member named Sara Van Der Werk, sits silently for most of the meeting, although she takes part in the final embrace. The club serves as an emotional bulwark for members dealing with life at a school where two students died last year in off-campus gunfire. Today a club member requests prayer for "those people who got in that big fight [this morning]." Another asks the Lord to "bless the racial-reconciliation stuff." (Patrick Henry is multiethnic; the prayer club is overwhelming white.) Just before Easter the group experienced its first First Amendment conflict: whether it could hang posters on all school walls like other non-school-sponsored clubs. Patrick Henry principal Paul McMahan eventually decreed that putting up posters is off limits to everyone, leading to some resentment against the Christians. Nonetheless, McMahan lauds them for "understanding the boundaries" between church and state.

In Alabama, the new school-prayer bill attempts to skirt those boundaries. The legislation requires "a brief period of quiet reflection for not more than 60 seconds with the participation of each pupil in the classroom." Although the courts have upheld some moment-of-silence policies, civil libertarians say they have struck down laws featuring pro-prayer supporting language of the sort they discern in Alabama's bill. In the eyes of many church-club planters, such fracases amount to wasted effort. Says Doug Clark, field director of the National Network of Youth Ministries: "Our energy is being poured into what kids can do voluntarily and on their own. That seems to us to be where God is working."

Reaction to the prayer clubs may depend on which besieged minority one feels part of. In the many areas where Conservative Christians feel looked down on, they welcome the emotional support for their children's faith. Similarly, non-Christians in the Bible Belt may be put off by the clubs' evangelical fervor; members of the chess society, after all, do not inform peers that they must push pawns or risk eternal damnation. Not everyone shares the enthusiasm Proffitt recently expressed at a youth rally in Niagara Falls, N.Y.: "When an awakening takes place, we see 50, 100, 1,000, 10,000 come to Christ Can you imagine 100, or 300, come to Christ in your school? We want to see our campuses come to Christ." Watchdog organizations like Americans United for the Separation of Church and State report cases in which such zeal has approached harassment of students and teachers, student prayer leaders have seemed mere puppets for adult evangelists, and activists have tried to establish prayer clubs in elementary schools, where the description "student-run" seems disingenuous.

Nevertheless, the Jewish committee's Stern concedes that "there's been much less controversy than one might have expected from the hysterical predictions we made." Americans United director Barry Lynn notes that "in most school districts, students are spontaneously forming clubs and acting upon their own and not outsiders' religious agendas." A.C.L.U. lobbyist Terri Schroeder also supports the Equal Access Act, pointing out that the First Amendment's Free Exercise clause protecting religious expression is as vital as its Establishment Clause, which prohibits government from promoting a creed. The civil libertarians' acceptance of the clubs owes something to their use as a defense against what they consider a truly bad idea: Istook's school-prayer amendment. Says Lynn: "Most reasonable people say, 'If so many kids are praying legally in the public schools now, why would you possibly want to amend the Constitution?'"

For now, the prospects for prayer clubs seem unlimited. In fact, the tragic shooting of eight prayer-club members last December in West Paducah, Ky., by 14-year-old Michael Carneal provided the cause with matyrs and produced a hero in prayer-club president Ben Strong, who persuaded Carneal to lay down his gun. Strong recalls that the club's daily meetings used to draw only 35 to 60 students out of Heath High School's 600. "People didn't really look down on us, but I don't know if it was cool to be a Christian," he says. Now 100 to 150 teens attend. Strong has since toured three states extolling the value of Christian clubs. "It woke a lot of kids up," he says. "That's true everywhere I've spoken. This is a national thing."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILCHREST). In the absence of a designee of the majority leader, the gentleman from Texas was permitted to continue.

CONGRESS MUST ELIMINATE MARRIAGE TAX PENALTY NOW

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

Mr. WELLER. Mr. Speaker, why is it so important that we pass the Marriage Tax Elimination Act of 1998? I think a series of questions best illustrates why.

Do Americans feel that it is fair that the average working married couple pays higher taxes just because they are married? Do Americans feel that it is fair that 21 million married working couples pay on the average $1,400 more just because they are married? Do Americans feel that it is right that our Tax Code actually provides an incentive to get divorced?

Of course not. Americans recognize that the marriage tax penalty is unfair. Twenty-one million married working couples pay on the average $1,400 more just because they are married. That is real money for real people. One year's tuition at Joliet Junior College in the south suburbs of Chicago equals $1,400. Fourteen hundred dollars is 3 months of child care at a local day care center in Joliet as well. That is real money for real people.

Let us make elimination of the marriage tax penalty our number one priority in this year's budget. Let us eliminate the marriage tax penalty. Let us eliminate it now.

Mr. Speaker, I rise today to highlight what is arguably the most unfair provision in the U.S. tax code: the marriage tax penalty. I want to thank you for your long term interest in bringing parity to the tax burden imposed on working married couples compared to a couple living together outside of marriage.

In January, President Clinton gave his State of the Union Address outlining many of the things he wants to do with the budget surplus.

A surplus provided by the bipartisan budget agreement which: Cut waste, put America's fiscal house in order, and held Washington's feet to the fire to balance the budget.

While President Clinton paraded a long list of new spending totaling at least $46—$48 billion in new programs—we believe that a top priority should be returning the budget surplus to America's families as additional middle-class tax relief.

This Congress has given more tax relief to the middle class and working poor than any Congress of the last half century.

I think the issue of the marriage penalty can best be framed by asking these questions: Do Americans feel its fair that our tax code imposes a higher tax penalty on marriage? Do Americans feel its fair that the average married working couple pays almost $1,400 more in taxes than a couple with almost identical income living together outside of marriage? Is it right that our tax code provides an incentive to get divorced?

In fact, today the only form one can file to avoid the marriage tax penalty is paperwork for divorce. And that is just wrong!

Since 1969, our tax laws have punished married couples when both spouses work. For no other reason than the decision to be joined in holy matrimony, more than 21 million couples a year are penalized. They pay more in taxes than they would if they were single. Not only is the marriage penalty unfair, it's wrong that our tax code punishes society's most basic institution. The marriage tax penalty exacts a disproportionate toll on working women and lower income couples with children. In many cases it is a working women's issue.

Let me give you an example of how the marriage tax penalty unfairly affects middle class married working couples.

For example, a machinist, at a Caterpillar manufacturing plant in my home district of Joliet, makes $30,500 a year in salary. His wife is a tenured elementary school teacher, also bringing home $30,500 a year in salary. If they would both file their taxes as singles, as individuals, they would pay 15%.

MARRIAGE PENALTY EXAMPLE IN THE SOUTH SUBURBS

	Machinist	School teacher	Couple
Adjusted gross income	$30,500	$30,500	$61,000
Less personal exemption and standard deduction	6,550	6,550	11,800
Taxable income	23,950	23,950	49,200
Tax liability	3,592.5	3,592.5	8,563
Marriage penalty			1,378

But if they chose to live their lives in holy matrimony, and now file jointly, their combined income of $61,000 pushes them into a higher tax bracket of 28 percent, producing a tax penalty of $1400 in higher taxes.

On average, America's married working couples pay $1,400 more a year in taxes than individuals with the same incomes. That's serious money. Everyday we get closer to April 15th more married couples will be realizing that they are suffering the marriage tax penalty.

Particularly if you think of it in terms of: A down payment on a house or a car, one years tuition at a local community college, or several months worth of quality child care at a local day care center.

To that end, Congressman DAVID MCINTOSH and I have authored the Marriage Tax Elimination Act.

It would allow married couples a choice in filing their income taxes, either jointly or as individuals—which ever way lets them keep more of their own money.

Our bill already has the bipartisan cosponsorship of 238 Members of the House and a similar bill in the Senate also enjoys widespread support.

It isn't enough for President Clinton to suggest tax breaks for child care. The President's child care proposal would help a working couple afford, on average, three weeks of day care. Elimination of the marriage tax penalty would give the same couple the choice of paying for three months of child care—or addressing other family priorities. After all, parents know better than Washington what their family needs.

We fondly remember the 1996 State of the Union address when the President declared emphatically that, quote "the era of big government is over."

We must stick to our guns, and stay the course.

There never was an American appetite for big government.

But there certainly is for reforming the existing way government does business.

And what better way to show the American people that our government will continue along the path to reform and prosperity than by eliminating the marriage tax penalty.

Ladies and Gentlemen, we are on the verge of running a surplus. It's basic math.

It means Americans are already paying more than is needed for government to do the job we expect of it.

What better way to give back than to begin with mom and dad and the American family—the backbone of our society.

We ask that President Clinton join with Congress and make elimination of the marriage tax penalty—a bipartisan priority.

Of all the challenges married couples face in providing home and hearth to America's children, the U.S. tax code should not be one of them.

Lets eliminate The Marriage Tax Penalty and do it now!

THE AIDS ACCOUNTABILITY PROJECT

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

Mr. COBURN. Mr. Speaker, with the availability of powerful new drug therapies, many with HIV infection now have hope. The cost of that hope is anywhere from $10,000 to $40,000 a year. I believe it is unconscionable to deny drugs to this group of people who are living with HIV, and I commend this body for the money that we have raised and allocated for this purpose.

However, I have been shocked to learn that many AIDS organizations pay their executives excessive salaries at the expense of those living with HIV. Medically necessary care is being severely curtailed while these executives line their pockets with Federal dollars.

I would advise the Members of this body and the public in general to look at www.accountabilityproject.com. to look at how this money is spent. I welcome AIDS patients to discuss this with this body.

Mr. Speaker, I submit for the RECORD the following article from the April 26 San Francisco Examiner about the accountability project.

[From the San Francisco Examiner, April 26, 1998]

TRACKING THE FUNDS FOR AIDS

(By Erin McCormick)

Michael Petrelis wants to know what happened to the $1.5 billion the United States spent on AIDS last year.

The 39-year-old AIDS patient, and a growing number of activists like him, have been willing to bang on locked boardroom doors, rifle through file cabinets and generally raise hell to make sure money raised for AIDS goes to fight the deadly disease and not to overhead expenses and high salaries for charity executives.

Now they are taking their crusade public with an Internet Web site that will allow donors and people with AIDS to follow the money that goes to the dozens of charity relief efforts around the country.

"There's a new phenomenon of people with AIDS living longer, which means we're asking more questions about services," Sid Petrelis, who said since he started prodding organizations for financial information he has been banned from receiving full services at three Bay Area AIDS charities.

"We're now questioning where the money goes from the AIDS Walk, the AIDs Ride and the AIDS Dance-athon because we would like to have services like hot meals and housing," he said.

The Accountability Project Web site (www.accountabilityproject.com), which reveals IRS tax filings and other financial information about major U.S. AIDS charities and other nonprofits, makes it possible for internet surfers to get instant information about how they spend their money.

The project, an offshoot of the in-your-face AIDS activist group, ACT UP Golden Gate, is also pushing for laws to require open board meetings, democratic management and greater financial scrutiny for the nation's rapidly growing nonprofit sector.

"Nonprofits are a trillion-dollar industry in the U.S.," said project member Jeff Getty, who has lobbied to get City Hall to pass laws requiring more public accountability from nonprofits that get city funds. "Our country is creating a [p.8] huge sector that's sometimes replacing government and is spending government money, but has no elected officials and no taxpayer accountability."

TAX RETURNS IN PUBLIC EYE

So far, the Accountability Project Web site has published the tax returns of 28 nonprofits from around the nation, ranging from the San Francisco AIDS Foundation and New York's Gay Men's Health Crisis to Walden House, a substance abuse recovery program that devotes only a portion of its resources to people with AIDS.

And while, on the whole, the documents show a vast array of lifesaving work being done on behalf of AIDs patients, Petrelis says, they also raise questions about some charities' priorities.

For instance, the reports show that 21 executives who worked at 10 of the charities, had pay packages exceeding $100,000.

The highest salary and benefits package went to Walden House Executive Director Alfonso Acamporo, who made $186,000 in 1996. Jerome Radwin, a director of the American Foundation for AIDS Research in New York, received the second highest, $181,000, followed by Pat Christen of the San Francisco AIDS Foundation, whose total compensation was $162,000.

The tax information also shows some executives getting large pay increases at a time when, Petrelis says government funding for AIDS is increasingly scarce.

In the case of the Washington, D.C., meal program, Food and Friends, tax returns show that Executive Director Craig Schniderman got a 62 percent raise in 1996, from $63,000 to $102,000.

JUDGING THE COMPENSATION

Dan Langen of the National Charities Information Bureau, which monitors tax-exempt organizations, said the issue of how much they should pay their executives is often controversial.

On one hand, he said, if a multimillion-dollar charity hires a manager who doesn't know how to handle money, it may see revenues—and services—disappear fast. But "there should be a difference between for-profit compensation and nonprofit. These people might be able to make a lot of money on Wall Street, but when they choose to work for a charity, they have chosen a different lifestyle."

The National Charities Bureau says nonprofits should spend at least half of their budgets on the charity mission, not on fund raising or administrative costs. It's a goal exceeded by all groups on the Web site.

That doesn't satisfy Petrelis.

He questions spending by Visual Aid, a small charity that helps artists suffering from devastating diseases by providing art supplies and organizing exhibitions. Petrelis noted that the group reported spending only 21 percent of its $159,000 budget on grants for artists' supplies, while much of the rest went to salaries and overhead.

Visual Aid Executive Director Jim Fisher said without its two staff members, the organization would be unable to put on exhibits, solicit donations of supplies or do any fund raising.

"We're about motivating people with illnesses to start working again," he said. "The Michael Petrelises of the world like to yell at us tiny people, who are just trying to build a base."

Petrelis said his pet peeve is the campaign for a $3.7 million Memorial AIDS Grove in Gold Gate Park, which solicited donors to pay $10,000 to sponsor a boulder and $15,000 for a park bench.

Petrelis said he doesn't understand how, at a time when people are still dying of AIDS, groups can be raising $10,000 for a boulder.

But project director Tom Weyand said the grove serves a vital purpose for those who have lost loved ones to AIDS and is not meant to compete with programs helping those fighting the disease. "It's about memories," he said.

While no nonprofit groups protest having their IRS reports on the Accountability Project Web site, some recoil at the group's efforts to get them to make public all financial records and board meetings.

The San Francisco AIDS Foundation said it's happy to have its tax filings posted but opposes measures that would require additional paperwork.

Petrelis said the cooperative treatment program run by the AIDS Foundation, the San Francisco AIDS Health Project and the Shanti Project barred him from group therapy sessions and group events after he got another piece of information and put it on the Web site; a transcript of an AIDS Foundation focus group in which patients were interviewed about the quality of services.

Petrelis said the foundation charged he had stolen the transcripts and banished him from group sessions as punishment for compromising the confidentiality of survey participants.

The AIDS Foundation and the Shanti Project said confidentiality rules barred them from commenting on Petrelis' status as a client.

But, while Petrelis and other Accountability advocates are criticized for being confrontational, the movement to require more scrutiny of nonprofits has caught fire.

"The bigger nonprofits get, the more chance they get out of touch with their constituencies," said Supervisor Tom Ammiano, who plans to introduce legislation Monday requiring more openness from nonprofits getting city money.

"We need to make sure the accountability is there so we aren't kept in the dark about what these organizations are doing to earn their keep," Ammiano said.

TOP-EARNING CHARITY EXECUTIVES

These executives earned the highest compensation packages of the 28 AIDS charities and other nonprofits that have so far provided IRS information to Project Accountability.

AIDS Healthcare Foundation-Los Angeles, $30 million annual budget: Michael Weinstein, President, $126,548.

AIDS Project Los Angeles, $16 million annual budget: James Earl Loyce Jr., Executive director, $144,227; William Misenhimer, Chief financial officer, $114,321; Allen Carrier, Director, $109,915.

American Foundation for AIDS Research-New York, $17 million annual budget: Jerome Radwin, Chief operating officer, $181,443; John Logan, General counsel, $104,391; Ellen Cooper, MD MPH, Vice president, $157,597; Sally Morrison, Vice president, $100,186.

Food and Friends, Washington DC meal program, $4 million annual budget: Craig Shniderman, Executive director, $102,125.

Gay Men's Health crisis-New York, $28 million annual budget: Mark Robinson, Executive director, $153,565; Addie Guttag, Deputy director, $139,337; Michael Isbel, Deputy director, $139,337.

Lambda Legal Defense and Education Fund-New York, $4 million annual budget: Kevin Cathcart, Executive director, $138,591.

Los Angeles Gay and Lesbian Community Services, $17 million annual budget: Name not provided, Executive director, $127,803.

San Francisco AIDS Foundation, $16 million annual budget: Pat Christen, Executive director, $162,294; Jane Breyer, Development director, $117,633; Lance Henderson, Finance director, $110,465; Rene Durazzo, Program director, $100,362.

Walden House-San Francisco substance abuse program, $14 million annual budget: Alfonso Acampora, Chief executive officer, $185,810.

Whitman-Walker Clinic-Washington DC, $16 million annual budget: James Graham, Executive director, $141,548; Harold Hawley, Medical director, $117,860.

Source: summaries of charities' most recent IRS 990 forms posted on the Accountability Project Web site. Some charities' reports cover the fiscal year 1995-96, while others cover calendar year 1996.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Mr. GEPHARDT) for today, on account of official witness.

Mr. DOYLE (at the request of Mr. GEPHARDT) for today after 6:00 p.m., on account of family business.

Mr. RADANOVICH (at the request of Mr. ARMEY) for today and the balance of the week, on account of the birth of a child.

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. EDWARDS) to revise and extend their remarks and include extraneous material:)

Mr. RUSH, for 5 minutes, today.

Ms. JACKSON LEE of Texas, for 5 minutes, today.

Mr. GREEN, for 5 minutes, today.

Mr. BENTSEN, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. KANJORSKI, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

(The following Members (at the request of Mr. McCrery) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. COBURN, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EDWARDS) and to include extraneous matter:)

Mr. KIND.

Mr. GEJDENSON.

Mr. ROTHMAN.

Mr. VISCLOSKY.

Mr. HILLIARD.

Mr. FRANK of Massachusetts.

Ms. EDDIE BERNICE JOHNSON of Texas.

Mr. BLUMENAUER.

Mr. KUCINICH.

Mr. TOWNS.

Mr. MARKEY.

Mr. BARRETT of Wisconsin in two instances.

Mr. MOAKLEY.

Mr. STARK.

Mr. BROWN of California.

Mr. BLAGOJEVICH.

Mr. GREEN.

Mr. PALLONE.

Mr. BORSKI.

Mr. RAHALL.

(The following Members (at the request of Mr. MCCRERY) and to include extraneous matter:)

Mr. GILMAN.

Mr. WELLER.

Mr. ARMEY.

Mr. PITTS.

Mr. MCHUGH.

Mr. WALSH.

(The following Members (at the request of Mr. EDWARDS) and to include extraneous matter:)

Mr. SCHUMER during consideration of H.R. 6 in the Committee of the Whole today.

Mr. YATES.

Mr. WEYGAND in two instances.

Mr. KUCINICH in two instances.

Mrs. TAUSCHER in two instances.

Ms. DUNN.

Mr. VISCLOSKY.

Mr. PACKARD.

Mr. MCDERMOTT.

Mr. FOSSELLA.

Mr. GREEN.

Mr. KIND.

Mr. BARRETT of Wisconsin.

ADJOURNMENT

Mr. CONYERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Thursday, May 7, 1998, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 2217. A bill to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes (Rept. 105–509). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2841. A bill to extend the time required for the construction of a hydroelectric project (Rept. 105–510). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 420. Resolution providing for consideration of the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 105–511). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 262. Resolution authorizing the 1998 District of Columbia Special Olympics Law Enforcement Torch Run to be run through the Capitol Grounds; with an amendment (Rept. 105–512). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 265. Resolution authorizing the use of the East Front of the Capitol Grounds for performances sponsored by the John F. Kennedy Center for the Performing Arts (Rept. 105–513). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 263. Resolution authorizing the use of the Capitol Grounds for the seventeenth annual National Peace Officers' Memorial Service: with an amendment (Rept. 105–514). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. MENENDEZ:

H.R. 3798. A bill to amend section 258 of the Communications Act of 1934 to protect telephone consumers against "cramming" of charges on their telephone bills; to the Committee on Commerce.

By Mr. MICA (for himself, Mr. PORTMAN, Mr. HASTERT, Mr. SOUDER, Mr. MCCOLLUM, Ms. ROS-LEHTINEN, and Mr. GOSS):

H.R. 3799. A bill to establish programs designed to bring about drug free teenage driving; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 3800. A bill to amend the Foreign Assistance Act of 1961 to require that assistance provided to a foreign country under part I of that Act, other than assistance provided on a cash transfer basis, shall be in the form of credits redeemable only for the purchase of United States goods and services; to the Committee on International Relations.

By Mr. ANDREWS:

H.R. 3801. A bill to amend title 11 of the United States Code to modify the application of chapter 7 relating to liquidation cases; to the Committee on the Judiciary.

By Mrs. LOWEY (for herself, Mr. EVANS, Mr. KENNEDY of Rhode Island, Mrs. MORELLA, Mr. FRANK of Massachusetts, Mr. OLVER, Ms. WOOLSEY, Mr. MCGOVERN, Mr. KUCINICH, Mrs. MALONEY of New York, Mr. SANDERS, Mr. HALL of Ohio, Mr. WAXMAN, Ms. SLAUGHTER, Mr. TOWNS, Mr. VENTO, Mr. BLAGOJEVICH, Mr. YATES, Ms. ROYBAL-ALLARD, Mr. LUTHER, Mr. STUPAK, and Mr. SERRANO):

H.R. 3802. A bill to prohibit the provision of defense services and training under the Arms Export Control Act or any other Act to foreign countries that are prohibited from receiving international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961; to the Committee on International Relations.

By Mr. REYES:

H.R. 3803. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Resources.

By Mr. SCARBOROUGH:

H.R. 3804. A bill to require that any amounts appropriated in a fiscal year for the House of Representatives for members' representational allowances which remain unexpended after all payments are made under such allowances for the fiscal year shall be used to repay amounts borrowed from the old-age, survivors, and disability insurance programs under title II of the Social Security Act; to the Committee on House Oversight.

By Mr. ARMEY:

H. Con. Res. 272. Concurrent resolution expressing the sense of the House on health care quality; to the Committee on Commerce.

By Mr. BRADY (for himself, Mr. GILMAN, Mr. GALLEGLY, Mr. ACKERMAN, Mr. SMITH of New Jersey, Mr. MENENDEZ, Mr. BALLENGER, Mr. MARTINEZ, Mr. SANFORD, and Mr. DAVIS of Florida):

H. Res. 421. A resolution expressing the sense of the House of Representatives deploring the tragic and senseless murder of Bishop Juan Jose Gerardi, calling on the Government of Guatemala to expeditiously bring those responsible for the crime to justice, and calling on the people of Guatemala to reaffirm their commitment to continue to implement the peace accords without interruption; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 339: Mr. GREENWOOD.

H.R. 530: Mrs. JOHNSON of Connecticut and Mr. SOLOMON.

H.R. 538: Mr. FROST.

H.R. 628: Mr. KENNEDY of Rhode Island.

H.R. 633: Mr. HOUGHTON.

H.R. 678: Mr. BURTON of Indiana, Mr. FOSSELLA, Mr. HANSEN, Mrs. KELLY, Mr. PARKER, Mr. TIAHRT, Mr. HERGER, Mr. MCKEON, Mr. DICKEY, Mrs. CHENOWETH, and Mr. REYES.

H.R. 696: Mr. MORAN of Virginia.

H.R. 814: Mr. MARTINEZ.

H.R. 859: Mr. JENKINS.

H.R. 944: Mr. LARGENT.

H.R. 950: Mr. MEEKS of New York.

H.R. 953: Mr. HILLIARD and Mr. SCHUMER.

H.R. 979: Mr. HAYWORTH, Mrs. CAPPS, and Mr. BARRETT of Nebraska.

H.R. 1126: Mr. JOHN and Mr. SABO.

H.R. 1173: Mr. SCOTT, Mr. JEFFERSON, and Mr. GUTIERREZ.

H.R. 1219: Mrs. CAPPS.

H.R. 1231: Ms. DANNER.

H.R. 1289: Mr. DIAZ-BALART and Mr. SHAW.

H.R. 1376: Mrs. CAPPS and Mr. LAMPSON.

H.R. 1492: Mr. ROGAN.

H.R. 1524: Mr. SANDERS.

H.R. 1628: Mr. SHAW and Mr. NADLER.

H.R. 1671: Ms. PELOSI.

H.R. 1706: Mr. BARRETT of Wisconsin.

H.R. 1766: Mr. BASS, Ms. BROWN of Florida, Mr. COOKSEY, Mr. CRAPO, Mr. FORD, Mr. GILMAN, Mr. JONES, Mrs. MCCARTHY of New York, Mr. MCCRERY, Mr. MEEKS of New York, Mr. OBERSTAR, Ms. PRYCE of Ohio, and Mr. THUNE.

H.R. 1813: Mr. GONZALEZ and Ms. FURSE.

H.R. 1913: Mr. BENTSEN.

H.R. 2077: Mr. HINCHEY and Mr. MARKEY.

H.R. 2183: Mr. TAUZIN.

H.R. 2273: Mr. MOLLOHAN, Mr. BARCIA of Michigan, Mr. HOLDEN, Mr. SNYDER, Mr. CAMPBELL, Mr. LEWIS of Kentucky, Mr. UNDERWOOD, Mr. LEACH, Mr. BILIRAKIS, Mr. COYNE, Mrs. CAPPS, Mr. DEUTSCH, Mr. KANJORSKI, and Mr. MOAKLEY.

H.R. 2275: Mr. RUSH, Mrs. MALONEY of New York, Mr. RANGEL, and Mr. BALDACCI.

H.R. 2313: Mr. KING of New York.

H.R. 2377: Mr. COBLE, Mr. GILCHREST, Mr. MCCRERY, Mr. PICKETT, Mrs. THURMAN, and Mr. METCALF.

H.R. 2408: Mr. SHERMAN and Mrs. TAUSCHER.

H.R. 2409: Mr. RUSH.

H.R. 2454: Mr. MEEKS of New York.

H.R. 2457: Mr. MEEKS of New York.

H.R. 2500: Mr. ADERHOLT.

H.R. 2504: Mr. FILNER.

H.R. 2523: Mr. BONIOR.

H.R. 2547: Mr. OLVER.

H.R. 2593: Mr. ROTHMAN and Mr. WYNN.

H.R. 2733: Mrs. MALONEY of New York, Mr. ENGLISH of Pennsylvania, Mr. BEREUTER, Mr. KILDEE, Ms. STABENOW, Mr. ORTIZ, Mr. BONIOR, Mr. GEKAS, Ms. SLAUGHTER, Mr. ROGERS, and Mr. ETHERIDGE.

H.R. 2748: Mr. JENKINS and Mr. BOEHLERT.

H.R. 2804: Mr. RUSH, Mr. FALEOMAVAEGA, Mr. ETHERIDGE, and Mr. STUPAK.

H.R. 2898: Ms. SLAUGHTER and Mrs. LOWEY.

H.R. 2935: Mr. LEWIS of Georgia.

H.R. 2938: Mr. LATOURETTE.

H.R. 2942: Mr. HILLEARY, Mr. ENSIGN, Mr. WATTS of Oklahoma, Mr. FOLEY, Mr. ORTIZ, Mr. DEAL of Georgia, and Mrs. MYRICK.

H.R. 2951: Mr. JEFFERSON, Mr. MANZULLO, Mr. WEYGAND, Mr. UPTON, Mr. MCGOVERN, Mr. WYNN, Mr. BARRETT of Nebraska, and Mr. KILDEE.

H.R. 2960: Mr. STENHOLM.

H.R. 3000: Mr. THOMAS and Mr. HALL of Texas.

H.R. 3001: Mr. GREENWOOD, Mr. WAXMAN, Mr. BACHUS, and Ms. MILLENDER-MCDONALD.

H.R. 3048: Mr. BLUNT.

H.R. 3067: Mr. TRAFICANT and Mr. KILDEE.

H.R. 3099: Mr. KLECZKA and Mr. MCHUGH.

H.R. 3110: Mrs. EMERSON, Mr. MURTHA, and Mr. PETERSON of Pennsylvania.

H.R. 3131: Mr. TORRES and Mr. HOBSON.

H.R. 3176: Mr. INGLIS of South Carolina.

H.R. 3189: Mr. BAKER, Mr. STUMP, Mr. CANADY of Florida, and Mr. RIGGS.

H.R. 3206: Mr. NORWOOD.

H.R. 3234: Mr. ARMEY.

H.R. 3284: Mr. MORAN of Kansas and Mr. CANADY of Florida.

H.R. 3304: Mr. DREIER, Ms. ROS-LEHTINEN, and Mr. BLILEY.

H.R. 3342: Mr. CLAY.

H.R. 3351: Mrs. EMERSON.

H.R. 3396: Mr. PASTOR, Mr. STEARNS, Mrs. FOWLER, Mr. BALLENGER, Mr. REGULA, Mr. SOLOMON, Ms. PRYCE of Ohio, Mrs. CHENOWETH, Mr. MANZULLO, Mr. NUSSLE, Mr. FAZIO of California, Mrs. JOHNSON of Connecticut, Mr. SMITH of New Jersey, Mr. LATOURETTE, and Mr. NETHERCUTT.

H.R. 3400: Mr. LANTOS.

H.R. 3410: Mr. METCALF, Mr. PICKETT, Mr. NETHERCUTT, Mr. BARRETT of Nebraska, Mr. BISHOP, Mr. BOYD, Mr. BRYANT, Mr. CALVERT, Mr. CANADY of Florida, Mr. CHAMBLISS, Mr. COBLE, Mr. CONDIT, Ms. DUNN of Washington, Mrs. EMERSON, Mr. FOLEY, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. MCHUGH, Mr. NORWOOD, Mr. PAXON, Mr. PICKERING, Mr. POMBO, Mr. SOLOMON, and Mr. SMITH of Michigan.

H.R. 3433: Mr. HOUGHTON, Mr. NUSSLE, Mr. WELLER, Mr. MCDERMOTT, and Mr. LEVIN.

H.R. 3466: Mr. HINCHEY, Mrs. MALONEY of New York, and Mr. HILLIARD.

H.R. 3475: Mr. SHAYS, Mr. MALONEY of Connecticut, Mr. NADLER, and Mr. HYDE.

H.R. 3494: Mr. HASTERT and Ms. LOFGREN.

H.R. 3504: Mr. DUNCAN.

H.R. 3517: Mr. ENGLISH of Pennsylvania, Mr. LAFALCE, Mr. HILLIARD, Mr. DEFAZIO, Mr. UNDERWOOD, Mr. FALEOMAVAEGA, Mr. GEKAS, Mrs. CLAYTON, and Ms. ESHOO.

H.R. 3523: Mr. YOUNG of Alaska, Mr. CHRISTENSEN, Mrs. CAPPS, Mr. WELLER, Mr. ABERCROMBIE, Mr. POMEROY, Mr. LAHOOD, and Mr. LUCAS of Oklahoma.

H.R. 3524: Mr. ENGEL.

H.R. 3531: Mr. EVANS, Mr. SANDERS, and Ms. FURSE.

H.R. 3534: Mr. RILEY, Mr. ADERHOLT, Mr. HOBSON, Mr. MCHUGH, Mr. BLUNT, Mr. SENSENBRENNER, Mr. GILLMOR, Mr. BARR of Georgia, Mr. MCINTOSH, Mr. LEWIS of Kentucky, Mr. HAYWORTH, Mr. THORNBERRY, Mr. MANZULLO, Mr. LAHOOD, Mr. ENGLISH of Pennsylvania, Mr. ROGAN, Mr. SUNUNU, and Mr. BEREUTER.

H.R. 3547: Mr. GOODE and Mr. WAMP.

H.R. 3561: Ms. SLAUGHTER.

H.R. 3566: Mr. FRANKS of New Jersey.

H.R. 3567: Mrs. EMERSON, Mr. KILDEE, and Mr. ALLEN.

H.R. 3570: Mr. KENNEDY of Massachusetts, Mr. MEEHAN, and Ms. LEE.

H.R. 3577: Mr. ENGEL and Ms. PELOSI.

H.R. 3604: Mr. DOOLEY of California, Ms. PELOSI, Mr. SHERMAN, Mr. FILNER, Mr. BERMAN, Mrs. TAUSCHER, and Mr. FARR of California.

H.R. 3613: Mr. LEWIS of California and Mr. STUPAK.

H.R. 3624: Mr. LANTOS and Mrs. CLAYTON.

H.R. 3626: Mr. BONILLA.

H.R. 3629: Mr. JONES.

H.R. 3632: Mr. DIAZ-BALART, Mr. SOLOMON, Mr. LATOURETTE, Mr. KING of New York, Mr. MCHUGH, Mr. NEY, Mr. LOBIONDO, Mr. LAHOOD, Mr. KILDEE, Mr. BLUMENAUER, Mr. ANDREWS, Ms. FURSE, and Mr. FORBES.

H.R. 3636: Ms. NORTON, Mr. STARK, and Mr. PETRI.

H.R. 3644: Mr. MATSUI.

H.R. 3682: Mr. ADERHOLT.

H.R. 3686: Mrs. CAPPS, Ms. SLAUGHTER, and Mrs. MALONEY of New York.

H.R. 3707: Mr. MCINTOSH, Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. HERGER, Mr. HOSTETTLER, Mr. DOOLITTLE, Mr. ARCHER, Mr. ROYCE, Mr. SHADEGG, Mr. SESSIONS, Mr. BRADY, Mr. COMBEST, Mr. SMITH of Texas, Mr. DELAY, Mr. PAUL and Mr. KASICH.

H.R. 3713: Mr. BECERRA.

H.R. 3734: Mrs. EMERSON, Mr. LOBIONDO, Mr. KING of New York, Mr. COMBEST, Mr. BLUNT, Ms. PRYCE of Ohio, Mr. INGLIS of South Carolina, Mr. REDMOND, Mr. JONES, Mr. DOOLITTLE, Mr. SESSIONS, Mr. ROYCE, Mr. TALENT, Mr. GOODE, Mr. FORBES, Mr. SOUDER, Mr. POMBO, Mr. BURTON of Indiana, Mr. FRANKS of New Jersey, Mrs. LINDA SMITH of Washington, Mr. BRADY, Mr. DELAY, and Ms. DUNN of Washington.

H.R. 3775: Mr. LIVINGSTON.

H.R. 3783: Mr. LAZIO of New York.

H.J. Res. 108: Mr. LUTHER.

H. Con. Res. 65: Mrs. CAPPS.

H. Con. Res. 203: Mr. STUPAK.

H. Con. Res. 229: Mrs. LOWEY and Mr. PACKARD.

H. Con. Res. 239: Ms. KAPTUR.

H. Con. Res. 249: Mr. ABERCROMBIE.

H. Con. Res. 254: Mr. BARTLETT of Maryland.

H. Con. Res. 258: Mr. LUTHER, Mr. KUCINICH, Mr. MENENDEZ, Mr. EVANS, Mr. DIXON, Ms. LOFGREN, Mrs. MALONEY of New York, Mr. SABO, Mr. HOBSON, Mr. HYDE, Mr. KENNEDY of Massachusetts, Ms. PELOSI, Mr. DELAHUNT, Mr. HOYER, Mr. STUPAK, and Mr. SERRANO.

H. Con. Res. 267: Mr. BATEMAN and Mr. WEXLER.

H. Con. Res. 271: Mr. KENNEDY of Massachusetts, Mr. MEEHAN, Mr. MCGOVERN, MRS. MALONEY of New York, Mr. TORRES, Mrs. KENNELLY of Connecticut, Mr. RUSH, Mr. BONIOR, Ms. PELOSI, Mr. FOX of Pennsylvania, and Mr. SHERMAN.

H. Res. 212: Mr. BLUMENAUER, Mr. BROWN of California, Mr. BONIOR, Mrs. CAPPS, Mr. CUNNINGHAM, Mr. ENGEL, Ms. FURSE, Mr. GEJDENSON, Mr. GORDON, Mr. JEFFERSON, Mr. JENKINS, Mrs. MYRICK, Mr. NORWOOD, Mr. POMEROY, Mr. SABO, Mr. ADAM SMITH of Washington, Mr. SMITH of New Jersey, Mr. THOMPSON, and Mr. TORRES.

H. Res. 392: Mr. FALEOMAVAEGA and Mr. ROYCE.

H. Res. 418: Mr. OBEY, Mr. BONIOR, Mr. KILDEE, Mr. LEVIN, Mr. ENGLISH of Pennsylvania, Ms. KILPATRICK, Mr. SAWYER, Mr. MCHUGH, and Mr. LATOURETTE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3694

OFFERED BY: MR. TRAFFICANT

AMENDMENT NO. 3: In title III of the bill, add at the end the following new section:

SEC. 305. ANNUAL REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH DOMESTIC FEDERAL LAW ENFORCEMENT AGENCIES.

Not later than 90 days after the end of each fiscal year ending after the date of the enactment of this Act, the Director of Central Intelligence shall submit a report to the Congress that describes the level of cooperation and assistance provided to domestic Federal law enforcement agencies by the intelligence community during such fiscal year relating to the effort to stop the flow of illegal drugs into the United States through the United States-Mexico border and the United States-Canada border.

H.R. 3694

OFFERED BY: MS. WATERS

AMENDMENT NO. 4: At the end of title IV, add the following new section:

SEC. 404. REVIEW OF 1995 MEMORANDUM OF UNDERSTANDING REQUIRING THE CIA TO REPORT TO THE ATTORNEY GENERAL INFORMATION REGARDING DRUG TRAFFICKING INVOLVING ITS FORMER OR CURRENT OFFICERS, STAFF EMPLOYEES, CONTRACT EMPLOYEES, ASSETS, OR OTHER PERSON OR ENTITY PROVIDING SERVICE TO OR ACTING ON BEHALF OF ANY AGENCY WITHIN THE INTELLIGENCE COMMUNITY.

(a) REVIEW OF 1995 MEMORANDUM OF UNDERSTANDING REGARDING REPORTING OF INFORMATION CONCERNING FEDERAL CRIMES.—The Attorney General shall review the 1995 "Memorandum of Understanding: Reporting of Information Concerning Federal Crimes" between the Attorney General, Secretary of Defense, Director of Central Intelligence, Director of National Security Agency, Director of Defense Intelligence Agency, Assistant Secretary of State, Intelligence and Research, and Director of Office of Non-Proliferation and National Security, Department of Energy. This review shall determine whether the 1995 Memorandum of Understanding requires:

(i) REPORT TO THE ATTORNEY GENERAL.—Whenever the Director of Central Intelligence has knowledge of facts or circumstances that reasonably indicate any former or current officers, staff employees, contract employees, assets, or other person or entity providing service to, or acting on behalf of, any agency within the intelligence community has been involved with, is involved with, or will be involved with drug trafficking or any violations of U.S. drug laws, the Director shall report such information to the Attorney General of the United States.

(ii) DUTY OF INTELLIGENCE EMPLOYEES TO REPORT.—Each employee of any agency within the intelligence community who has knowledge of facts or circumstances that reasonably indicate any former or current officers, staff employees, contract employees, assets, or other person or entity providing service to, or acting on behalf of, any agency within the intelligence community has been involved with, is involved with, or will be involved with drug trafficking or any violations of U.S. drug laws, shall report such information to the Director of Central Intelligence.

(b) PUBLIC REPORT.—Upon completion of review, the Attorney General shall publicly report its findings.

H.R. 3694

OFFERED BY: MR. WELDON OF PENNSYLVANIA

AMENDMENT NO. 5: At the end of title III, add the following new section:

SEC. 305. PROLIFERATION REPORT.

(a) ANNUAL REPORT.—The Director of Central Intelligence shall submit an annual report to the Members of Congress specified in subsection (d) containing the information described in subsection (b). The first such report shall be submitted not later than 30 days after the date of the enactment of this Act and subsequent reports shall be submitted annually thereafter. Each such report shall be submitted in classified form and shall be in the detail necessary to serve as a basis for determining appropriate corrective action with respect to any transfer within the meaning of subsection (b).

(b) IDENTIFICATION OF FOREIGN ENTITIES TRANSFERRING ITEMS OR TECHNOLOGIES.—Each report shall identify each covered entity which during the preceding 2 years transferred a controlled item to another entity for use in any of the following:

(1) A missile project of concern (as determined by the Director of Central Intelligence).

(2) Activities to develop, produce, stockpile, or deliver chemical or biological weapons.

(3) Nuclear activities in countries that do not maintain full scope International Atomic Energy Agency safeguards or equivalent full scope safeguards.

(c) DEFINITIONS.—For the purposes of this section:

(1) CONTROLLED ITEM.—(A) The term "controlled item" means any of the following items (including technology):

(i) Any item on the MTCR Annex.

(ii) An item listed for control by the Australia Group.

(iii) Any item listed for control by the Nuclear Suppliers Group.

(B) AUSTRALIA GROUP.—The term "Australia Group" means the multilateral regime in which the United States participates that seeks to prevent the proliferation of chemical and biological weapons.

(C) MTCR ANNEX.—The term "MTCR Annex" has the meaning given that term in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(D) NUCLEAR SUPPLIERS' GROUP.—The term "Nuclear Suppliers' Group" means the multilateral arrangement in which the United States participates whose purpose is to restrict the transfers of items with relevance to the nuclear fuel cycle or nuclear explosive applications.

(2) COVERED ENTITY.—The term "covered entity" means a foreign person, corporation, business association, partnership, society, trust, or other nongovernmental organization or group or any government entity operating as a business. Such term includes any successor to any such entity.

(3) MISSILE PROJECT.—(A) The term "missile project" means a project or facility for the design, development, or manufacture of a missile.

(B) The term "missile" has the meaning given that term in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(d) SPECIFIED MEMBERS OF CONGRESS.—The Members of Congress referred to in this subsection are the following:

(1) The chairman and ranking minority party member of the House Permanent Select Committee on Intelligence.

(2) The chairman and ranking minority party member of the Senate Select Committee on Intelligence.

EXTENSIONS OF REMARKS

INTRODUCING A HEALTH QUALITY RESOLUTION

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. ARMEY. Mr. Speaker, today I am introducing a resolution on health-care quality. It expresses the sense of the House that Congress not pass any legislation that: Makes health insurance unaffordable; swells the ranks of the uninsured; diverts scarce health resources to lawyers and bureaucrats; or imposes political considerations on medical practice, such as so-called body-part mandates.

The resolution is needed to remind us our first duty is to "do no harm," and thus not to pass any so-called "quality" bill that would in fact do serious harm to the quality of patient care. I am thinking of bills like the White House-Democrat Leadership "Patient Bill of Rights Act," a bill that would have the perverse effect of eliminating every kind of managed-care plan except restrictive HMOs, enable nurses and doctors to go on strike, and drive up premiums and drive down coverage by letting trial lawyers sue health plans for malpractice. Worst of all, this liberal dream bill would let HHS bureaucrats define "medical necessity," which is as good as giving them power over life and death. It is an audacious step toward Clintoncare.

I am the first to acknowledge the serious flaws in today's health-care system. While America leads the world in excellent medical drugs, devices, and doctors, and while insurance plans are improving every day thanks to market forces, the fact is we have real problems in our health system.

Government policy, both state and federal, makes insurance unaffordable for millions.

The tax break for health insurance discriminates against the unemployed and small-business workers.

Many employers offer their workers no real choice of plans or doctors.

And of course we have all heard about the bad health plans, the ones that deny service in violation of contract, or that let remote bureaucrats with cook books impose medical decisions over the advice of trained, on-site health professionals. I do not know how many of these accusations are true, but even one is too many if it is true and preventable. So this problem demands our serious attention.

But in trying to improve, we have an obligation not to destroy. We should serve the good of patients and consumers, and not the financial interests of certain industries or trade associations. Above all, we should not assist President Clinton in his openly acknowledged scheme to socialize our health system step by step.

In passing this resolution, the House would be going on record in favor of legislation that promotes rather than degrades quality. It is identical to a resolution by Senator NICKLES of Oklahoma that recently passed the Senate by a vote of 98 to zero. Even Senator KENNEDY voted for it, reluctantly. I want us to approve the Nickles resolution in the House, so that we may not be outdone in our zeal for good by our distinguished colleagues across the Rotunda.

REMEMBRANCE OF ANNA M. SULLIVAN

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WEYGAND. Mr. Speaker, today I rise to mark the passing of Mrs. Anna M. Sullivan of Cranston, Rhode Island, a dear friend and dedicated public servant. Anna has been a leader in her church and her community, an inspiration to her family and friends, and has left behind a legacy of public service.

Music was a large part of her life. At the age of 13, Anna began to play the organ and direct the choir for her church. Through 53 years and five children that devotion never changed. Mrs. Sullivan was also the elementary music supervisor for the Warwick public school system for many years.

If Anna is to be remembered for one issue, it is her strong, lifelong fight in opposition to abortion and support of the family. Anna's work as a right to life advocate began in 1970, when she and others organized a group to oppose the attempts by some lawmakers to make abortion legal.

They originally called themselves the Constitutional Right to Life Committee, but later changed the name to Rhode Island State Right to Life. In 1979, Anna founded Right to Life Services, which provides baby clothes and equipment to as many as two thousand needy families each year.

Anna lobbied legislators on a number of topics she felt passionately about. Anna led the fight against assisted suicide in Rhode Island. Another issue of particular concern to Anna was increasing nutritional support for pregnant women. She helped underprivileged people and young women who were pregnant. While she met many people she disagreed with, she always treated them with respect.

In 1982, she received the Monsignor Charles W. McConnell Memorial Award from the Diocese of Providence's Catholic Youth Organization. In 1985, she became the first woman to receive the Hope Award from the Rhode Island State Council for the Knights of Columbus. In 1989, in a ceremony at the Cathedral of SS Peter and Paul, she was awarded the Papal Cross, "Pro Ecclesia et Pontifice".

Anna, who leaves behind ten children and nine grandchildren, never forgot her family despite her many public service activities. Anna will be missed by her friends, family, and community. I ask my colleagues to join me in extending our deepest sympathies to her family at this time.

PERSONAL EXPLANATION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. VISCLOSKY. Mr. Speaker, yesterday, I was in my district to participate in Indiana's primary elections. As a result I was unable to vote on roll call votes #122–126. If I had been present, I would have voted "no" on roll call #122, and "yes" on roll call #123–126.

PRAISE FOR MS. ELEANOR EPSTEIN, SPRING HONOREE OF THE UNITED JEWISH APPEAL OF BERGEN COUNTY, NEW JERSEY

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. ROTHMAN. Mr. Speaker, I rise today to honor a truly generous and caring woman in my community in Bergen County, New Jersey—Ms. Eleanor Epstein of Englewood Cliffs. Eleanor Epstein has carved a place for herself as an energetic and forceful advocate for children and the elderly. She appreciates her heritage and understands that being part of a community is about giving others a hand up so that each of us has the tools to succeed.

This month, Ms. Epstein is being honored by the United Jewish Appeal for her many years of outstanding service to the community. Her list of accomplishments leave no doubt of her position as the consummate community leader. She helped found the United Jewish Community Center on the Palisades while also serving on the Women's Division of the former United Jewish Fund of Englewood, New Jersey, the United Jewish Appeal's Dor L'Dor Society and as a Ruby Lion of Judah.

Through these organizations, she reached out to the entire community, providing family activities, support, and aid to the entire citizenry of North Jersey. It is through the passions and drive of people like Eleanor Epstein that empower hometowns across America to evolve beyond simple houses and businesses into vibrant, caring communities. She brings with her an enormous strong civic pride and a deeply ingrained sense of service and concern for fellow human beings that spreads to all those with whom she comes in contact.

Ms. Epstein learned the value of community and service from her parents during her childhood in Brooklyn, New York. From those

strong spiritual and family roots, she not only gave to the community, she dedicated herself to a strong marriage of 50 years to her husband Edward, another devoted and beloved figure in our community. Together they raised four loving, caring and equally philanthropic sons who have given them eleven grandchildren that they cherish beyond words.

Mr. Speaker, all of this being said, I wish to take a moment and wish Ms. Epstein all the best and continued success with her endeavors in Bergen County. A simple 'thank you' cannot convey what our entire community owes to Ms. Epstein; however, I hope that all of my colleagues have individuals in their respective districts like Eleanor Epstein because it is people like her that make the United States of America a more caring, safer and more wonderful place to live.

TRIBUTE TO GOODLOE SUTTON

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. HILLIARD. Mr. Speaker, I rise today to offer my congratulations to one of Alabama's finest and most ethical journalists, Mr. Goodloe Sutton of Linden, Alabama.

Mr. Sutton's series on police corruption in Marengo County, Alabama was recently entered into the competition for the prestigious Pulitzer Prize . . . the Academy Award of journalism.

I am personally *very proud* for Mr. Sutton, but I am equally proud for the citizens of Marengo County because they have such a brave and fearless man of letters to look after their interests.

Mr. Sutton's series of articles uncovered rampant law enforcement corruption, the misuse of public funds, and the uncovering of one of the largest drug rings ever revealed in the county's history.

Because of Mr. Sutton's public integrity, he suffered many, many injustices at the hands of the Sheriff's Department, as well as many death threats.

His story is a shining example of the best and the brightest which occurs in America when a single citizen has the bravery to stand alone, in the face of mounting pressure and odds, and stands up for justice and equality.

Mr. Sutton's quest for both the truth, as well as for the principle of equal justice under the law is both laudable and meritorious.

Mr. Sutton should be commended by the Congress and the American people for his truly American heroism and dedication to the truth. Well done, Goodloe Sutton.

NATIONAL NURSES WEEK

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to honor the work of America's 2.6 million registered nurses to save lives and maintain the health of millions of individuals in the United States.

May 6–12 is National Nurses Week. Using the theme "Nursing: Healthcare With a Human Touch," the American Nurses Association and its 53 consitutent associations will spend this week highlighting the diverse ways in which registered nurses, the largest health care profession, are working to improve health care.

From acute bedside nursing to long term care, the depth and breadth of the nursing profession is rising to meet the challenges of the different and emerging health care needs of the American population in a whole new range of settings. Registered nurses' education and holistic approach is especially suited to meet the renewed emphasis on primary and preventive health care in the managed care environment. And with an aging American population, the demand for registered nursing services in the home care field will be greater than ever.

National Nurses Week begins on May 6, marked as RN Recognition Day, and ends on May 12, the birthday of Florence Nightingale, the founder of nursing as a modern profession. Nurses, as a rule, do not work in plush or serene environments. Indeed, they often work long hours at relatively low pay, and with far fewer thanks for their dedicated work.

During this week, I would like to ask all my colleagues to join me in honoring the registered nurses who care for all of us and, further, celebrate the registered nursing professions' continuing commitment to improve the safety and quality of patient care and availability of health care services for all in our health care system.

In closing, Mr. Speaker, I note that as a registered nurse myself, I am proud to be associated with a group of individuals who exemplify the highest qualities of selflessness, compassion and concern for others.

AMERICAN VICTIMS OF TERRORISM

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Ms. DUNN. Mr. Speaker, while I missed rollcall vote 125, I would have voted in support of House Concurrent Resolution 220.

This sense of the Congress demanding that Yasir Arafat and the Palestinian Authority transfer to the United States, for prosecution, those residents of its territory who are suspected in the killings of American citizens is sensible and just. The harboring of suspected terrorists who attack Americans at home and abroad is deplorable, and measures to punish these terrorists must be taken.

Again, for the record, I join my colleagues in support of this sense of the Congress regarding American victims of terrorism.

TRIBUTE TO THOMAS P. MONDANI

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. GEJDENSON. Mr. Speaker, I rise today to note with great sorrow the passing of Thomas P. Mondani, a man who will long be remembered for his dedication and commitment to Connecticut public schools.

For two decades Mr. Mondani served as the director of the Connecticut Education Association (CEA) and became a champion, and friend, for Connecticut public school teachers. He worked tirelessly to achieve improvements in both the professional rights and benefits of educators.

In 1979, he fought for the passage of a binding arbitration law for teachers, which ended the threat of teacher strikes in Connecticut. In 1986, Mr. Mondani helped pass the Education Enhancement Act, which lifted teachers' salaries to a level comparable to those in other professions. With the enactment of these two important pieces of legislation and various other contributions, the CEA Board of Directors voted unanimously in 1994 to grant Mr. Mondani the CEA Friend of Education Award. As a lasting tribute, the CEA even renamed the award in his honor.

Mr. Mondani began his career in public education as a teacher in Moodus in 1959. He joined the CEA staff in 1963 as a research consultant and later was promoted to director of research. From 1965 to 1971, he served in the state legislature as a Representative and a Senator. On July 1, 1971, he became the CEA's fifth full-time executive director since its 1848 founding. He continued as director until March 1, 1994 holding the position longer than any previous director. In 1991, he was appointed Vice Chairman of the State Board of Governors for Higher Education by Governor Lowell P. Weicker Jr. He was reappointed in 1997 to a third term by Governor John Rowland. Since October 1997 he had been serving a six month appointment as the interim executive director of the Georgia Association of Educators.

Mr. Mondani was a remarkable man. Connecticut is most certainly a better place as a result of his work for children, teachers, schools and higher education. He knew how to deal with tough questions concerning education and did so with a sense of humor and goodwill.

Mr. Speaker, Thomas P. Mondani was a rare kind of man, a man who devoted his whole life to a cause that has changed so many lives for the better. I have lost a good friend, and the State of Connecticut, its teachers, students and families, have lost one too. He will surely be missed by all of us who had the pleasure to know him. I am sure the House will join me in expressing our most sincere sympathy to Mr. Mondani's family.

RECOGNITION OF RHODE ISLAND'S SMALL BUSINESS ADMINISTRATION

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WEYGAND. Mr. Speaker, I rise today to commend the Rhode Island branch of the Small Business Administration. Last year the Rhode Island District Office set a record for the number of loans they issued. 511 different loans were issued totaling $101.7 million approved for Fiscal Year 1997.

The Small Business Administration provides financial, technical and management assistance to help Americans start, run and grow their businesses. With a portfolio of business loans, loan guarantees and disaster loans, the SBA is the nation's largest single financial backer of small businesses. The SBA offers management and technical assistance to small business owners as a complement to the financial services it provides. The Small Business Administration is committed to providing financial support to entrepreneurs in order to continue the economic recovery and viability of Rhode Island. Access to capital and sound business advice are critical to growth and are often cited as a major factor in business success.

The hundreds of thousands of small businesses across this country provide the majority of jobs to Americans. These loans have allowed entrepreneurs to start their own businesses, given small businessmen the capital needed to expand existing companies, and have created jobs for thousands of people in the State of Rhode Island alone. The additional investment in the future of small business will help keep the economy strong.

Mr. Speaker, I ask my colleagues to join me in commending the Rhode Island branch of the Small Business Administration. Without the dedication and hard work of all those involved, business in America would not be what it is today.

PRAISE FOR MS. JACQUELINE KEMPNER, SPRING HONOREE OF THE UNITED JEWISH APPEAL OF BERGEN COUNTY, NEW JERSEY

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. ROTHMAN. Mr. Speaker, I rise today to honor one of the great women of my community in Bergen County, New Jersey—Ms. Jacqueline Kempner. Jackie Kempner has spent her life distinguishing herself as a cornerstone of both the local Jewish and secular communities. She has spent thousands of hours of hard work and dedication constructing a solid network among local Jewish and neighborhood organizations.

Jackie is being honored this year by the United Jewish Appeal for her years of service to the Jewish community. She founded the future leaders of the Northern Jersey Jewish community. She has served on the UJA Federation's Young Women's and Women's Divisions, eventually becoming the Young Women's Division's chair. And she is a member of the prestigious group of donors called the Lion of Judah.

During her many years of service, Jackie's passion has been the cultivation of our young people, specifically preparing young women from across North Jersey to assume the mantles of leadership, community and responsibility. She is passing on the lessons her parents taught her to a new generation of Americans. Without individuals with the drive and dedication of Jacqueline Kempner, the torch of leadership and the wisdom of those who went before us would be lost to the generations to come.

Jackie Kempner is a friend, not just to me, but to everyone with whom she comes in contact. She is the kind of person who brightens the day and makes things work. The UJA, the Federation and the various other civic and religious organizations that she has touched would not be as active and vibrant today without her tireless efforts. She truly is an inspiration to us all.

One of the characteristics I personally respect about Jackie Kempner is that she knows that charity starts in the home. She has been just as giving and caring to her own family as she has been to her community. She and her husband Michael have raised two beautiful and intelligent children in Zachary and Melissa.

Mr. Speaker, all of this being said, I wish to take a moment and wish Jackie Kempner all the best and continued success with her endeavors in Bergen County and throughout the world. A simple "thank you" cannot convey what we and future generations owe to Ms. Kempner; however, I hope that all of my colleagues have individuals in their respective districts like Jacqueline Kempner because it is people like her that ensure that the United States of America will continue to be a wonderful place to live for generations and generations to come.

TRIBUTE TO OUTSTANDING EDUCATORS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to commend eight dedicated teachers from Northwest Indiana, who have been voted outstanding educators for the 1997–98 school year. These individuals, Mary Czapko, Donna Dowty, Marilynn Edwards, Bill Gresh, Peter Hedges, Nancy Mills, Judith Musselman, and Mary Tanis, will be presented the Crystal Apple Award at a reception at the Radisson Hotel at Star Plaza in Merrillville, Indiana, today, May 6, 1998. Mary Czapko will also receive the torch of Knowledge Award for being selected the outstanding member of this distinguished group of educators.

Mary Czapko has been a first grade teacher at Lincoln Elementary School in Roselawn, Indiana for 22 years. She is known as a dedicated teacher by her colleagues, since she puts so much time into planning her lessons and developing special projects for the school and her surrounding community. Mary has since handedly organized such programs as "Green Eggs to Hamlet", which involved convincing community members to read to young children in all three of the public libraries in her area. She was also active in "Read Across America" family reading night on Dr. Seuss' birthday, and was instrumental in developing the "Math Their Way" program in the North Newton School Corporation. An individual with a strong commitment to early childhood education, Mary has even used her own money to purchase books to create a resource library for all teachers in the North Newton School Corporation.

Donna Dowty, a teacher described by her colleagues as someone who puts the needs of children first, has also taught within the North Newton School Corporation for 22 years. Donna began her career as a kindergarten teacher at Lincoln Elementary School, where her development of a kindergarten graduation program has remained a tradition for 23 years. Over the years, she has taught kindergarten, first, and second grade at Morocco Elementary School, and she has become well-known for working with parents for the betterment of their children's education, as well as doing whatever it takes to get a child to succeed. Donna participates in a variety of programs and committees, including the Parent Teacher Organization and technology committee. One of her most noteworthy accomplishments was obtaining a 4R grant for mini-computer labs in Morocco Elementary School's kindergarten and first grade.

Marilynn Edwards has been a science teacher with Taft Middle School for over 20 years. During this time, she has become known for making the success of her students her top priority. A strong belief in cooperative learning has marked her career. Hands-on learning methods are used in her own classroom, and she has been instrumental in integrating lab activities into the school's curriculum. Some organizations to which Marilynn belongs include: the Indiana Science Assessment Teachers' Association; the Indiana Science Teachers' Association; and the National Science Teachers' Association. Locally, she serves on the Crown Point and Taft Professional Development Committees, and she is a member of Taft School's Improvement Team, which guided the staff's transition from a junior high school to a middle school. Marilynn is described by those who know her as a professional, caring, and hard-working teacher who has improved education at all levels.

Bill Gresh, who has worked at Lowell High School for 12 years, has made his mark on education by placing the school's Media Center at the forefront of technology and innovation. Bill changed the Lowell High School Library into a Media Center, beginning with the installation of an electronic card catalog and CD ROMs, and culminating with the current online services in place. Over the years, Bill's focus has remained clear. to make available a plethora of current resources available to students, faculty, and staff. Bill's colleagues describe him as a professional who is available,

approachable, and accommodating. If a new teaching idea is being considered, Bill is known to work with the necessary individuals to make worthwhile projects a reality. As a 20-year veteran of the teaching profession, Bill remains devoted to securing for teachers the tools they need to deliver state of the art instruction to their students.

Peter Hedges has been a science teacher at Highland Middle School for the past 34 years. Peter is known by his students and colleagues, alike, for his enthusiastic and good-humored approach to teaching. His wit makes his presentations entertaining and informative for his students, and encourages them to become excited about the subject matter. Those who work with Peter describe him as being a voice of reason, as he often reminds them that the reason for being a teacher is to educate children. His colleagues agree that they are better people for having known and worked with him.

Nancy Mills has been a devoted Spanish teacher for 25 years, 19 of which she has spent teaching at Lowell High School. For many years, Nancy has successfully taught the fourth year Spanish class at Lowell. According to Purdue University, 56 of the 76 credits, college credits Lowell students accumulated through Advanced Placement (AP) testing last year, were granted to Spanish students. Indeed, every member of Nancy's 1997 Spanish class earned college credit.

Judith Musselman has been a Speech and English teacher at Highland High School for 34 years. Throughout her career, Judith has a reputation among her colleagues for working to advance the expertise, knowledge, and preparedness of the students she has instructed. She has done so, not only through classroom instruction, but also through participation in various extracurricular endeavors. Judith has worked to improve the departmental curriculum, participating in departmental meetings, becoming involved in various training programs, and holding an active role in major committees, such as the technology committee. Over the years, Judith has worked to provide her students within an excellent education, and she has been rewarded as many of her students return to thank her for the work ethic she instilled in them.

Mary Tanis has been a Social Studies and English teacher at Kahler Middle School in Dyer, Indiana for 24 years. Throughout her career, Mary has designed a variety of creative projects in her classroom, which have sparked the interest of her students and fellow teachers. She has, for instance, implemented Arbor and Earth Day projects in her classroom. 16 years ago, she created a genealogy project, which is still used to teach children about their different heritages. Mary has also been a forerunner in keeping students apprised of technological resources available to them, and she was one of the first teachers in her school corporation to use the Internet as a classroom tool for instilling in students an interest in current events, history, and the weather. Mary's efforts to focus her young students on current affairs has led several of her former students to run for political office.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending these outstanding educators on their receipt of the 1998 Crystal Apple Award. The years of hard work they have put forth in shaping the minds and futures of Northwest Indiana's young people is a true inspiration to us all.

BANKBOSTON SHOWS HOW DIVERSITY SHOULD WORK

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. FRANK of Massachusetts. Mr. Speaker, I was very pleased to receive from Chairman Charles Gifford of BankBoston an excellent report on the diversity program of the bank. BankBoston shows beyond dispute how an intelligent, supportive approach to diversity is fully compatible with a successful business in America today. Because the inclusion of gay and lesbian workers in diversity programs is unfortunately not yet as wide spread as it should be, I was especially pleased to note the recognition Mr. Gifford and BankBoston have given to this important aspect of a comprehensive diversity program. Given the prejudice against gay men and lesbians that still exist in many areas of our economy and society, I am grateful to Mr. Gifford and BankBoston for taking a leading role in this area. When a highly successful and very well respected institution such as BankBoston steps forward in this way, the lessons for society as a whole are profound. Because of this, I ask that the page from that diversity report illustrating the importance of inclusion of gays and lesbians in diversity programs be printed here. I do so not to suggest that the other aspects of the diversity program are unimportant, but because BankBoston is particularly deserving of praise for its willingness to take on this one prejudice which so many other entities fear to confront.

OUR COMMITMENT TO DIVERSITY: A STATEMENT FROM CHAD AND HENRIQUE

We are deeply committed to building a diverse workforce, and are confident that we can and must effectively manage our diversity. But, when BankBoston chose diversity as one of Our Values, many of us in executive management immediately foresaw some challenges.

First, we need to educate our workforce, so we all recognize diversity as the critical business issue that it is. Second, we need to use that understanding and appreciation to leverage diversity as an integral instrument in providing value for customers and shareholders. And third, we must hold ourselves accountable and determine whether we have achieved this vital goal.

Like most business people, we live by the motto that "what gets measured gets managed." This focus on measuring performance quantitatively encourages structure, discipline and accountability. At BankBoston, we use many processes to measure our performance against goals. We survey customers to see how well we are meeting their expectations. We chart our financial performance to determine whether we are hitting our Managing for Value targets. We even use a detailed Performance Development Process to ensure that we manage employees' development.

Some goals, however, do not lend themselves as easily to numbers and graphs. In fact, when you try to measure success in managing diversity through only numerical means, you risk missing the broader and deeper picture. For example, if you meet your targets at hiring more people of color, but you don't create a safe and supportive environment in which their talents and abilities flourish, you will ultimately fail. Even if employees don't physically leave the organization, they may fall short of their potential without sufficient recognition and development.

Diversity is also a moving target. As cultures and demographics shift, diversity itself takes on new meaning. Just 20 years ago, diversity was seen as the need to hire and promote more women and people of color. Today, it is commonly accepted that we must think more broadly than race and gender. We must harness the diverse talents and perspectives of all employees, in our efforts to meet our business goals. This includes changing the way we manage and interact as team members with people who have different styles of learning and working, and managing diversity as a key business advantage in our increasingly multicultural markets. In an evermore diverse and competitive marketplace, we cannot afford to exclude any perspectives.

The costs of not managing workforce diversity are well documented—high turnover, high absenteeism and low productivity. The benefits of managing diversity are also well established—increased creativity and innovation, greater productivity, increased employee satisfaction and loyalty, larger market share and, ultimately, enhanced shareholder value.

This report—focusing on three critical areas of diversity for BankBoston (i.e., investing in our employees, customers and community)—is an example of our sincere commitment. It is one more step in our ongoing journey. We re publishing it to educate our workforce on the value of diversity, to share our successes thus far and to hold ourselves, as an institution, accountable for our progress.

CHAD GIFFORD,
Chairman and Chief Executive Officer.
HENRIQUE MEIRELLES,
President and Chief Operating Officer.

BRIAN BUSH: SETTING THE RECORD STRAIGHT ON GAYS AND LESBIANS

It's the moment of truth for many gay and lesbian employees, the moment you "come out" and be yourself. For Brian Bush, it happened almost two years ago.

The reaction from colleagues and management? "I've received nothing but support," says the head of BankBoston Connecticut's Gay & Lesbian Resource Group. "To know and work with someone who's gay dispels stereotypes. We've very much the same as others. We work hard, care about our careers and have committed relationships."

An assistant vice president in Corporate Lending, Brian can attest to the value of having employees free to focus on their jobs instead of covering up who they are. "Most gays and lesbians wear masks in the workplace and try to act like heterosexuals," he continues. "How do you respond when you receive a personal call at work? What do you say when people talk about their family and social activities? It seems unfriendly not to share details with your coworkers. It takes away from the concept of teamwork. Since coming out, I can focus all my energy on my job."

Brian expects it will be easier for the Bank to generate new business and attract more highly qualified employees, once people learn how supportive the Bank is regarding diversity. "We're very fortunate to have a CEO who has gone out of his way to offer support," he observes. "The Bank's ongoing commitment will show people that our corporate value of diversity is here to stay."

Brian says the recently introduced extended family benefits, which includes domestic partners, "is the icing on the cake. We've made a lot of progress in the last two years, and are way ahead of most companies."

RECOGNITION OF THE PROVIDENCE PUBLIC HOUSING AUTHORITY

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WEYGAND. Mr. Speaker, I rise today to commend the Public Housing Authority of Providence, Rhode Island. In ten short years they have managed to turn around some of the most depressing public housing projects in the city, and create a rejuvenated community full of hope and promise for its residents.

In 1986 the board of the Providence Housing Authority had to make some tough choices. At that time the agency was plagued by many problems. Housing residents complained of the poor conditions of their buildings. Stairs within the buildings were crumbling creating safety hazards. Garbage pickup had been neglected. Local banks no longer trusted the agency's checks. The U.S. Department of Housing and Urban Development threatened to cut off funding if the agency's problems were not solved.

When President Franklin D. Roosevelt launched public housing in 1937, the intent was to provide temporary housing for families in financial straits. Screening was strict; tenants had to be employed. After World War II, the character of public housing gradually changed. Currently, a typical tenant must rely on public housing as permanent housing, and receives public assistance. Public housing projects in recent years have been plagued by a downward spiral of public assistance, lack of job training, and high crime rates.

The Providence Housing Authority decided to face the problem head on. Existing units within the system have been modernized. Repairs have been undertaken ranging from complete rehabilitation to emergency repairs of rotting roofs. Maintenance repair orders are completed swiftly rather than languishing unfinished for months. Security in the Providence properties has improved, allowing residents to build a community. The agency has built up its cash reserves, improving the financial management of the housing authority. Perhaps most important, the Providence Housing Authority has introduced high caliber non-housing services for residents, such as job training, life skills, and youth recreation programs. They have developed after-school programs for children, and self-sufficiency programs for adults.

In recent years, the Housing Authority, which is monitored by HUD, has consistently received higher grades in its annual report-card-type ratings. Since 1991, when HUD started their rating system, the Providence Housing Authority has improved its scores every year. And recently the Housing Authority has achieved "high performer" status, by scoring 97 out of a possible 100 points.

This turn around would not have been possible without the leadership and support of the eleven member Board of Directors of the Providence Housing Authority. These men and women, led by Stephen O'Rourke, have worked hard and persevered in turning around a crumbling system. I ask my colleagues to join with me in congratulating the Providence Housing Authority of a truly remarkable turnaround.

IN MEMORY OF GABE PAUL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the memory of a remarkable man in Cleveland Indians baseball history, Gabe Paul.

Born in Rochester, N.Y., Mr. Paul had a penchant for baseball as a young boy. He was a bat boy for the minor league Rochester Red Wings in 1920 and witnessed the early days of baseball history. His love for the sport grew and he decided to devote his life to it. He joined the Cincinnati Reds as publicity director in 1937 and advanced his way through the Reds' management until he became General Manager in 1949, the youngest GM in baseball history at the time. Paul showed his true passion for the sport when he married his wife Mary on Opening Day, 1939.

Mr. Paul arrived in Cleveland to the posts of general manager, president, and treasurer in 1961. Through 1972 and from 1978 to 1984, he led the Indians through good times and bad times. He maintained until the end of his term that the Cleveland Indians were a "sleeping giant" and would one day emerge from their losing streak as a contender in baseball. Mr. Paul was right and with the construction of Jacobs Field, the team began its current success.

My fellow colleagues, join me in saluting the life of a giant in the baseball industry and a true fan of the game, Gabe Paul.

PERSONAL EXPLANATION

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WELLER. Mr. Speaker, last night, during the Rollcall vote on Mr. MCGOVERN's amendment to H.R. 6 (No. 124), the Higher Education Amendments of 1998, I inadvertently voted "no" when I wished to vote "aye."

VISIT OF MEMBERS OF THE IRISH DAIL TO THE U.S. CONGRESS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. GILMAN. Mr. Speaker, last night at the Library of the Congress both you and I were honored to welcome members of the Irish Dail here to the Congress, as we opened the second session of the Irish American Inter-parliamentary exchange, you so wisely reinitiated two years ago.

The relations between Ireland and its warm and generous people and our great nation are long, historic and very close. The remarks of the Speaker of the Dail, the Ceann Comhairle Seamus Pattison of Kilkenny which were delivered at the Library were particularly important, and best summarize this long and very important relationship between Ireland and the United States.

At this important moment in Irish history, I believe my colleagues would be particularly interested in the Speaker of the Dail's comments on the U.S./Ireland relationship, and I insert his full and important remarks for the RECORD.

REMARKS BY MR. SEAMUS PATTISON, T.D., CEANN COMHAIRLE AT DINNER HOSTED BY MR. NEWT GINGRICH, SPEAKER, U.S. HOUSE OF REPRESENTATIVES

Mr. Speaker, Ambassador ÓhUiginn, parliamentary colleagues both Irish and American, friends.

I am delighted to respond to your kind remarks and would wish, at the outset, to thank you most sincerely for hosting this dinner in honour of the visit by Irish Parliamentarians. It is a great honour to have dinner here at the Library of Congress and I would like if I may introduce the other members of the delegation: Mr. Desmond J. O'Malley, T.D., Chairman, Joint Committee on Foreign Affairs, Mr. Michael P. Kitt, T.D., Mr. Michael Noonan, T.D., Mr. Alan Shatter, T.D., Mr. Matt Brennan, T.D., Mr. Dinny McGinley, T.D., Dr. Pat Upton, T.D., Mr. Brendan Smith, T.D., and Mr. Thomas Gildea, T.D.

As you know Mr. Speaker, official contacts between the Oireachtas and the U.S. Congress were put on a more formal footing in the early 1980s. The Friends of Ireland group was established in Congress in 1981 and the Ireland/United States Parliamentary Group in the Houses of the Oireachtas in 1983. Under the auspices of those groups a number of exchange visits took place with delegations from the Friends of Ireland visiting Dublin in 1982 and 1985, with Irish delegations visiting here in 1983 and 1985. Official links between the two groups lapsed, however, by the mid 1980s but contacts did continue on a more informal basis. The question of re-establishing these links were raised on a number of occasions in the early 1990s. My predecessor Seán Treacy raised the issue with you Mr. Speaker leading to a congressional delegation visiting Ireland in February 1997 to confirm our Parliament's interest in reviving formal links.

The formal announcement of the re-launch of the Ireland-U.S. Inter Parliamentary Group was made by you at the St. Patrick's Day lunch in honour of the then Taoiseach John Bruton. We in Ireland were delighted to hear that you had asked two very distinguished Congressmen Ben Gilman and Jim

Walsh to co-chair the U.S. side. I want to pay a very special tribute to both of them whom I got to know during the very successful visit to Ireland in November last year for the work they have put into the work of the group since its re-launch last year. I look forward to co-chairing the first session of our meetings tomorrow when we discuss the Irish peace process.

The people of Ireland deeply appreciate the tireless efforts of both the Friends of Ireland and the Ad Hoc Committee on Irish Affairs to bring about a just and lasting peace in Northern Ireland. As Speaker of the Irish House of Representatives and on behalf of the delegation I too wish to express my appreciation for those efforts which has led to the Good Friday peace agreement. The agreement offers a truly historic opportunity for a new beginning within Northern Ireland. It is balanced fair and comprehensive. All parties will find aspects to their liking but will have difficulties with others. However, the reality is that people on the island of Ireland want peace. It is my belief that the requirements of the people have been met and it is my expressed hope that confirmation of this will be a resounding yes vote in the referenda being held on 22 May.

During the current peace process we have had enormous encouragement and goodwill not only from the international community but especially so from the United States. President Clinton and his administration has taken a deep personal interest in the search for a lasting and just peace in Northern Ireland. That commitment was demonstrated through his visit to Belfast in November 1995. He was the first sitting U.S. President to undertake such a visit.

Congress too has played a very important part. A number of those leading Congressmen I have referred to earlier but I also want to include the other co-chairmen of the Ad Hoc, Peter King, Richard Neal and Tom Manton and many others who have been good friends to Ireland and have been active on a range of political and economic issues over the years. Senator Ted Kennedy too has been a true friend of Ireland and I look forward to meeting with him on Thursday morning. I cannot emphasize enough the key role played by Senator George Mitchell, the independent chairman of the talks whose patience and dedication helped to bring the talks to their successful conclusion.

I also want to mention, Mr. Speaker, how much we value your own personal interest and support. I know that your concern is year round, but your generous hospitality in hosting the annual St. Patrick's Day Speaker's lunch on Capitol Hill has been especially welcome. The event in recent years has brought together the main political leaders from north and south. There is no doubt that the opportunity for dialogue which this year's Washington programme afforded the political leaders greatly helped in laying the ground work for their eventual historic agreement on Good Friday.

I look forward to meeting with you when you visit Ireland next summer. I can assure you of a hearty cead mile failte, and repaying the generous hospitality you have offered to us this evening.

On the day the talks were concluded (Good Friday) I was attending the spring conference of the Inter Parliamentary Union in Namibia. I was delighted to receive the best wishes from international parliamentarians on the successful outcome of the talks. It was pleasing that during the conference the Inter Parliamentary Council congratulated all concerned on the outcome of the talks and a letter expressing those congratulations, signed by the president of the council, Señor Miguel Angel Martinez of Spain, was forwarded by me to the Taoiseach, Bertie Ahern.

As Irish politicians, it encourages us greatly to know that we can count on U.S. support. The two groups in Congress with a strong interest in Ireland—the Friends of Ireland and the Ad Hoc Committee on Irish Affairs demonstrates to us the interest of the United States to hearing of the happenings in Ireland. One of the practical ways in which this is shown by Congress is through the support for the International Fund for Ireland. Your desire to address the economic impact of the troubles through voting each year economic assistance to the fund assists its efforts to bring economic hope to the most disadvantaged areas. Since its inception the fund has supported in excess of 3,400 individual projects involving expenditure of over $350m. These projects have helped to create in excess of 29,000 jobs. Total investment related to expenditure to the fund amounts to over $900m as public and private sectors sources also contribute to the fund. The delegation visiting Ireland last year availed of the opportunity to visit some of the projects which have been assisted by the fund.

We in Ireland identify with the success of our Emigrant communities around the world but especially here in the United States where, I believe, some 44 million claim some Irish ancestry. It is hardly surprising therefore that many of the households in Ireland have American cousins. Our emigrants here in the United States have played a huge role in making it the most powerful nation in the world. We in Ireland owe a great deal of gratitude to countries like America. Just over one hundred and fifty years ago, the Great Irish famine was at its worst. Ireland was devastated as over one million people died of starvation with another one million emigrating in its immediate aftermath. The majority of those emigrating came to the United States in conditions of incredible hardship with nothing to sustain them when they got there, except a willingness for hard work and an overwhelming desire to succeed. Most Americans can identify with the quintessential story of the emigrant. The U.S. has continued to provide a home from home for Irish people ever since those dark days of famine.

In more recent years the United States has become the adopted home for many of our young emigrants. We are particularly grateful for the role played by our friends in Congress in securing visas for them under the Donnelly, Morrison and Schumer Schemes. As our economy has bounded ahead in recent years, the nature of emigration has changed. Many of our emigrants now return home to Ireland bringing vital skills learned in America, having made a real contribution while they are here. We know these are difficult issues, but we strongly urge you, in both our interests, to continue to make provision for our young people to come to the U.S. and to learn the American way.

The strong presence of foreign investment has been one of the keys to our recent economy success. Therefore it goes without saying that the United States, with over 500 companies, is the largest single investor in Ireland and has played a critical role in the growth of our economy. These U.S. firms are not coming to Ireland out of altruism. They are coming for a variety of reasons, not least of which is that, according to the U.S. Department of Commerce, Ireland is the most profitable location for U.S. investment in Europe.

A number of U.S. companies have announced several major projects in job creation—Boston Scientific Expansion plans of 40m with over 2,050 jobs being created, Oxford Health Plans—500 jobs in insurance claims processing, Bausch and Lomb—650 jobs and Hewlett Packard's announcement of a second investment at its Leixlip plant with an expected 2,000 employees by 1997 to mention but a few.

While there are no official figures available on the value of Irish investment in the U.S., several of our major Irish companies including Smurfit, Masstock, James Crean, Bank of Ireland, AIB, Kerry Group, Avonmore and Bord Bainne have already acquired substantial interests here.

There are a myraid of historical connections that bind our two countries. One of the areas that stands out is our common interest in the democratic process and politics in general. Irishman and women have distinguished themselves right across the U.S. in Federal, State and local politics. As you know a number of Irishmen were signatories to the Declaration of Independence. I have earlier referred to Senator Ted Kennedy whose great-grandfather came from New Ross which is located just a stone's through from my own constituency of Carlow-Kilenny, a constituency I have had the honour of representating for nearly 37 years. I am therefore the only sitting member who was present in the House to hear the addresses of the 3 American presidents during joint sittings of the Houses of the Oireachtas—President John F. Kennedy was the first distinguished guest to address the Houses when he visited Ireland in 1963, President Reagan did so in 1984 and more recently we had the address of President Clinton.

I am looking forward to our working sessions here in Washington over the next few days. It may be that we may only manage to scratch the surface on a number of issues but we will try to cover as much ground as possible. I wish all the participants in the sessions every good wish.

I will conclude now Mr. Speaker by thanking you once again for hosting this dinner in our honour. It has been a privilege to meet with you and to discuss with you matters of mutual interest.

I would ask you all to raise your glass to the continued success of Ireland/U.S. parliamentary friendship.

"BREAKING THE RULES"

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. YATES. Mr. Speaker, among the outstanding civil servants working for the people of Chicago is my good friend, Lois Weisberg. As Commissioner of Cultural Affairs, Lois has sponsored a series of cultural events which have brought a glow to the City of Chicago and to Mayor Richard Daley.

Today, an article appears in The Chicago Sun Times which truly delineates the warm active personality and character of Lois Weisberg. I am sure my colleagues will enjoy reading this perceptive account of her life and activities:

[From the Chicago Sun-Times, May 6, 1998]

BREAKING THE RULES

RENEGADE ARTS MAVEN ADORES HER JOB

(By Lori Rotenberk)

Her movements and the rapidity of her speech defy age. Both are nonstop.

So, too, her brain. And so, too, the puffs on her cigarette ("I'm quitting!") sending a snake of smoke from her ruby lips.

Every little thing about her seems to travel at the speed of sound. Even her black city-issued car, as it pulls out of a downtown alley and into the Chicago night.

The cops wouldn't dare.

Lois Weisberg, the city's renegade Commissioner of Cultural Affairs, turns 73 today. In her eighth decade, she is still a woman who treads the fringe.

"Ugh. I can't work where everybody follows the rules," Weisberg says, "My whole life has been about breaking rules."

This attitude has helped her leave a dramatic mark on the city—even if you don't know her, you know the programs she has created over the years, Blues Fest, Gospel Fest, many ethnic fests, the watchdog group Friends of the Park.

A typical idea: She put a birthday hat on the Picasso at Daley Center to celebrate the statue's birthday. "Everyone thought I was crazy when I suggested it. They didn't know how to do it. I didn't know how to do it. Then I found a group of Mexican nuns who made papier-mache. They delivered it in a big truck. And that's when I began to learn how to get around all of the bureaucracy."

Last month, Weisberg received an award from the Illinois Arts Council for her contribution to city arts and culture. Soon, one of her favorite programs, Gallery 37, the nationally recognized student summer art program in the Loop, will raise its tent along State Street.

Weisberg is the scratch to Mayor Daley's itch.

What he dares to imagine, she's damned to create.

To say she loves her work is a mistake. Weisberg adores it, lives it. She stays awake until 3 a.m., answering all of her own correspondence. "Everything I see, hear and do gives me an idea," she says.

Acquaintances and friends alike speak of her huge and good heart. Weisberg admits she can't say no to anyone. "I try to do something for everyone who asks me for help," she says.

"Lois Weisberg is one of those unique people who can think very creatively and very practically at the same time," Daley says. "I can call Lois with an idea and know without a doubt that she will find a way to make it happen."

Born on this day in 1925, Weisberg grew up in Chicago's Austin neighborhood. She walked the streets with her nose always dug into a book, the odd child "of two perfectly normal parents." Later, she briefly attended the University of Illinois, then transferred to Northwestern, where she graduated with a degree in radio. "Right at the end of its golden age," Weisberg says accusingly. "I couldn't find a job anywhere because television was coming in. So I got a job writing a TV program called 'Baby Talk,' a simply horrible program."

She winces at the memory. She wears eyeglasses studded with rhinestones, lighting up that Muppet face like the Chicago Theatre marquee, and clatters around the mosaic floor of the Cultural Center in white leather boots, faux fuzzy fur around their ankle-high tops.

Friends say Weisberg, a widow for several years, sorely misses her late husband, Bernard, who was her best friend. She has two grown sons, Jacob and Joseph.

But she doesn't lack for interests.

"Would you like to know the things I really love doing?" she asks, "Riding the Broadway and Clark Street buses, just to keep in touch with humanity. And I like to sit up in the front with a bunch of grocery bags." An avid gardener, Weisberg also likes country music and collects egg cups and frogs.

Since she so dislikes rules, what is the last she may have broken?

"I can't tell you," Weisberg jokes. "But I do drink martinis or straight vodka, and that makes me a drinking, smoking, horrible person."

Hardly. There was a time, too, when Weisberg was an antsy housewife who preferred to keep her hands in the arts rather than the dishwater.

Having always had a yen to direct, she pulled together actors to form the Chicago Drama Quartet.

Weisberg combed books for plays to perform and one day came across George Bernard Shaw's Back to Methuselah. "I didn't know a thing about Shaw," she says.

The Burgess Meredith dropped in on a performance. Assuming Weisberg was a Shaw scholar, he asked her to speak to a group of fellow actors about the great Irish playwright. She found a book about him and learned Shaw had been born exactly 100 years before.

"I read the first page and never read past that," Weisberg explains. "It said Bernard Shaw was born on July 26, 1856. I had never heard anything about this man, this great writer who was having a 100th anniversary and no one knew it."

So she made sure everyone would know.

Weisberg invited guests from around the world to celebrate Shaw. She made the papers worldwide with stories about the Glencoe housewife who was so good as to remember Shaw when everyone else forgot. The New York Times wrote an editorial, and Chicago became the Shaw capital. The Sherman Hotel, at the request of Weisberg, created the Bernard Shaw Room, and his plays were performed there for several years. In it was born the Bernard Shaw Society, then the Shaw newsletter.

Around that time, Weisberg received a call from a friend at the University of Chicago. The campus magazine, Big Table, was being censored, and its writers had invited the beat poets of the era to town to raise money for the publication. Would she lend a hand?

Weisberg gave them the Shaw room, where Allen Ginsberg would give the first public reading of "Howl." She advertised that anyone with a beard would get in free. The line of bearded men would around the block. The beats were front-page news for days.

Ginsberg stayed in touch with her.

"Allen would send postcards from all his travels." Weisberg recalls. "I have postcard on the wall somewhere here that says, 'Lois, you have to try this LSD.' I didn't even know what it was."

Then she began an underground newspaper called the Paper, in which she interviewed jazz and literary greats. Dizzy Gillespie was one of her great friends.

From there it was on to head the department of public affairs for the Rehabilitation Institute of Chicago. Then on to a public interest law firm and later the executive director of the Chicago Council of Lawyers.

Paid political life began in the 1980's when she joined the administration of Mayor Harold Washington and became head of special events. Discouraged to be working with a 'zero budget,' she informed fans of Venetian Night that there would be no fireworks that summer. "But come out anyway," she urged at a speech, "and enjoy the air. It's free."

So was she until Daley recruited Weisberg as his special assistant. Since then, the city hasn't been quite the same.

Last year, when Illinois poet laureate Gwendolyn Brooks turned 80. Weisberg made sure Brooks' poems were handed out at L stops and passed out by patrol officers on bikes along the lakefront.

Oh, and there's plenty more. Weisberg promises. And the ideas spill and spill. Are you going to stay forever, until you are way up there in your 70's? Weisberg is asked. "I love, love my work," is all she will answer.

THE 23D ANNIVERSARY OF THE FALL OF SOUTH VIETNAM TO COMMUNISM

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. McHUGH. Mr. Speaker, I rise today to remind my colleagues of an important anniversary. Last week marked the 23rd anniversary of the fall of South Vietnam to Communism and the end of the Vietnam War. I was reminded of this date by a newspaper column written by the Army's 10th Mountain Division and Fort Drum, New York, Commander, Major General Lawson W. Magruder III. He marked the occasion by sharing his personal reflections on his time and service in Vietnam. I would like to share his column with our colleagues so that we may also remember the brave men and women who served this country in Vietnam.

[From the Fort Drum Sentinel, Apr. 30, 1998]

(By Maj. Gen. Lawson W. Magruder III)

April 30 marks the 23rd anniversary of the fall of South Vietnam to Communism and the end of the Vietnam War. For this reason, April has always been a month of reflection about what the Vietnam War meant to me. It is a time for me to recall the lesson I learned over 27 years ago when I returned from Vietnam. I'd like to share some thoughts with you:

My last day in Vietnam evoked many emotions as I waited for the big "freedom bird" to wing me back to Texas and a reunion with my wife, Gloria, and 15-month old daughter, Shannon. It was a day filled with sadness, anticipation, relief, hope, excitement, and pride. Sadness over the soldiers I had led and grown to love in a special way who were never to return to their families; anticipation over my future and the future of our Army as we both transitioned to a period of peace; relief that my separation from my loved ones had gone without serious injury or illness; hope that our lives would quickly return to normal and that our nation would soon withdraw from the war without major casualties and that South Vietnam would succeed on its own against Communism; excitement about returning to Gloria and Shannon and closing out an important chapter in my young career and returning to the 82d Airborne Division to command a company; and pride in having served my soldiers, my Army, and my country honorably in the

toughest environment. With the exception of my feeling of sadness, it was a composite of so many of the same emotions I had felt previously in my life on the day of a major event: the first day at a new school, "season openers," graduation from high school and college, commissioning day, reporting to my first unit, and my departure one year earlier from Austin Airport for Vietnam.

Aside from the already described feelings, on my last day in Vietnam I took stock of the four most important lessons I learned during the year—lessons that I have carried with me over the past 27 years of my career. First, it magnified for me the words from my oath of commission: ". . .to obey the orders of the President and the officers appointed over me. . ." and my father's advice (a veteran of three wars) to obey orders no matter how distasteful they may be unless they are illegal or immoral. I learned quickly as an infantry rifle platoon leader in combat that my job was not to question the prosecution of an unpopular war but to obey legal orders and lead my soldiers to the best of my ability in the accomplishment of difficult tasks. The second lesson learned was that a leader should only focus on his "piece of the Army" and make it the most professional team in the organization. I saw to many leaders in combat worry about "higher" at the expense of readiness and caring for their soldiers. Third, the basics that leaders demand in training work in combat and result in winning engagements and the saving of lives. I learned that even with the most dynamic tactics you will fail without adherence to the basics. Leaders must set and demand high standards from their subordinates to win! The last lesson that I took away from Vietnam was the importance of faith and family in one's life. Combat magnified for me the frailty of human life and the absolute importance of having a "true azimuth" in your life. Because I was at peace with the Lord and knew that I was supported on the "homefront" by a loving and supportive wife and family, I never worried about not coming home. Consequently, then and today I am able to devote myself totally to the leadership of America's finest Light Fighters.

We are all "defined" by our past experiences. My experiences in Vietnam is an important part of my makeup and being. It will always be with me, and even though many view the Vietnam War as a "lost cause," I, along with thousands of other vets, am proud of our service many years ago in that sad country in Southeast Asia. May we never forget those brave men and women who fought for democracy in Vietnam. Let me close with this special quote that I've kept under my desk glass for the past 26 years:

"If you are able, save for them a place inside of you. . . and save one backward glance when you are leaving for the places they can no longer go. . . Be not ashamed to say you loved them, though you may or may not have always. . . Take what they have left and what they have taught you with their dying and keep it with your own. . . And in that time when men decide and feel safe to call the war insane, take one moment to embrace those gentle heroes you left behind. . . ."—Maj. Michael Davis O'Donnell, Springfield IL, 1 January 1970.

IN HONOR OF THE CONGREGATION OF SAINT JOSEPH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to commend the Congregation of Saint Joseph on the 125th anniversary of their service to the Greater Cleveland community. The Saint Joseph Congregation is dedicated to the improvement and education of the community.

Originally founded in 1650 in Le Puy, France, the Congregation of the Sisters of St. Joseph devoted themselves to God and to their fellow citizens. They minister to school children, the sick, and others in need. After enduring hardship in the Reign of Terror in France that nearly sent some of the sisters to the guillotine, the Congregation rebuilt themselves and was committed to developing a ministry in America.

Six sisters came to America in 1836 intent on serving God through service to the people. After establishing fifteen houses, the Congregation of St. Joseph staffed St. Mary's School in Painesville in 1872. The sisters then went on to serve at Saint Therese, Nazareth, and Saint Joseph Academies. In their tradition of education and service, the sisters effectively labored for the institutions of the Cleveland Diocese.

My fellow colleagues, join me in congratulating the Congregation of Saint Joseph for their 125 years of service in Greater Cleveland.

PRISON CAMP TORTURE IN NORTH KOREA

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. PITTS. Mr. Speaker, today I would like to insert for the record information on some of the most disturbing news that I have heard recently about the egregious torture which was a reality to thousands of prison camp residents in North Korea.

I recently met with Mrs. Soon-Ok Lee and Mr. Chul-Hwan Kang, survivors of the horrifying prison camps of North Korea. The two survivors now live in South Korea and desire to share with the world the truth about North Korea. Both Mrs. Lee and Mr. Kang are willing, at some risk to their safety, to testify before this body about their treatment while in the prison camps and about the general situation of the people of North Korea. It is vital that their information is shared with the world.

Mrs. Soon-Ok Lee described the torture she endured at the hands of prison authorities. After severe beatings in which she lost many teeth and suffered partial paralysis in her face, she was subject to water torture. North Korean authorities forced her to lie down on her back and then they inserted a special kettle sprout into her mouth. The spout was made so that it expanded in her mouth and she could not breathe without swallowing water. The guards then poured gallon upon gallon of water into the spout thereby forcing it into Mrs. Lee's body. Due to the incredible amount of water flowing into her body, she became unconscious and her stomach became distended. When it was clear that her body could hold no more, the guards stopped, waited for her to awake, laid a board on her stomach and jumped on it. This forced the water back out of her mouth and caused her excruciating pain. She again lapsed into unconsciousness. Prison officials repeated this scenario a number of times both to Mrs. Lee and other prisoners.

Mr. Chul-Hwan Kang witnessed similar egregious violations of human dignity. He was in prison from age nine to nineteen. Authorities imprisoned Mr. Kang at such a young age, because North Korean authorities arrest three generations of family members if a person is accused of a crime against the state or public order. When Mr. Kang's grandfather was arrested for spying, they also arrested and imprisoned the 9-year-old boy. While in the prison camp, Mr. Kang, along with most other prisoners, suffered from extreme malnutrition. In order to survive, he ate snakes, rats, and frogs. In addition to suffering from malnutrition, he watched countless executions carried out either by hanging or by firing squad. Inmates were forced to watch all executions. When guards completed some executions such as hanging, prisoners were forced to stone the dead bodies until they were no longer recognizable as human.

Mr. Speaker, horrors such as this do not continue indefinitely when the international community is educated, outrages, and spurred to action. The American public must become aware of these egregious human rights violations. It is of the utmost importance that we begin the process of disseminating the information as widely as possible so that peoples of our nation and others can act on behalf of the suffering North Koreans.

BUDGET SURPLUS HIGHER THAN EXPECTED

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. PACKARD. Mr. Speaker, just yesterday the Congressional Budget Office (CBO) released new figures that show that the budget surplus for this year will be between $43 and $63 billion—drastically higher than the $18 billion surplus that was predicted after last summer's historic balanced budget agreement. This is one more indication of what we can achieve with a Republican-led Congress that is dedicated to ending wasteful and irresponsible government spending.

As a member of the House Appropriations Committee, I would like to applaud my colleagues for making the balanced budget and this substantial surplus a reality. Appropriations is the only committee with a direct impact on spending and the federal budget. Under Chairman BOB LIVINGSTON's (R–LA) leadership, we have fundamentally changed the way Washington spends its money. Since

taking control of Congress, Republicans have effectively eliminated 307 outdated and unneeded programs, streamlining government and making it more accountable to the American taxpayer.

Fueled by the American entrepreneurial spirit, our growing economy has been a fundamental partner in this accomplishment. Mr. Speaker, I take pride in the new figures for the budget surplus and applaud those Americans, from homemakers to small business owners, who have helped make it happen. These individuals are the ones who know best what to do with surplus dollars, not bureaucrats in Washington. I urge the Administration and my colleagues in Congress to do the right thing with the surplus: send it back to the public through tax relief and debt reduction.

A TRIBUTE TO NANCY SMITH

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. WALSH. Mr. Speaker, I rise today to pay tribute to Mrs. Nancy S. Smith, a longtime employee of the Library of Congress.

Nancy is retiring from the federal government after over 43 years of service—all of those years at the Library of Congress. She has spent her entire career in the budget office at the Library. Her most recent assignment was as an assistant to the budget officer.

All who know and worked with Nancy came to appreciate and admire her steadfast professionalism and her attention to the detail that characterizes the work of federal budget making. Nancy was the authoritative "number cruncher" in the Library's budget shop and all three Librarians of Congress for whom she worked were the beneficiaries of her skills and diligence.

The House Appropriations Committee, in particular, has been grateful for all the work and care Nancy put into preparing the variety of tabulations and explanations needed to review the budget program of the Library of Congress. In addition to being on call throughout the normal workday, Nancy was often called upon to spend evenings and weekends in preparing the analysis necessary for congressional oversight. She was always there when needed.

We will all miss Nancy. After these 43 years she has certainly earned a rewarding retirement.

She can now devote her time to travel and her love of opera and classical music.

Well done, Nancy. And—Bon Voyage!

THE "RUPTURED DUCK" GETS A RIDE ON THE SPACE SHUTTLE

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. TAUSCHER. Mr. Speaker, I rise today to recognize Ms. Kitty Kelly, a constituent from Livermore, California and the daughter of Mr. Wilfred John Kelly, who was an Electricians Mate Second Class in the United States Coast Guard.

Mr. Wilfred Kelly entered into military service in July of 1942 at a time when our country was in terrible conflict. He joined the U.S. Coast Guard, served abroad the USS *Gloucester*, and was Honorably Discharged from service in 1946. Upon leaving active duty, Mr. Kelly was awarded the Honorable Discharge Lapel Pin, nicknamed the "Ruptured Duck", as recognition for his honorable service. The "Ruptured Duck" is awarded to all members of the U.S. Coast Guard who have served with honor and distinction, and who have been discharged honorably.

Mr. Kelly always had a great respect and personal admiration for the space industry. He believed in the necessity of space exploration and was fascinated by our country's ability to expand its pioneering spirit into the reaches of outer space. Sadly, Mr. Kelly passed away on May 28, 1995 and carried with him his admiration for space exploration. Ms. Kelly contacted my office requesting assistance in immortalizing her father's memory. She asked that I contact NASA Operations and forward her request to have her father's lapel pin flown on the space shuttle. After a month of corresponding between NASA and my office, the dream of Ms. Kelly and her father was about to be realized.

On April 17, 1998 the Space Shuttle Columbia launched from NASA's Kennedy Space Center and on board was Mr. Kelly's lapel pin. Space Shuttle Commander Richard Searfoss agreed to carry the pin in his personal affects bag. Upon return of the shuttle, Mr. Kelly's pin will be returned to the family with a lasting memorial to Mr. Wilfred Kelly.

The opportunity to facilitate such a rare privilege is one that I will cherish as a Member of this distinguished body.

IN HONOR OF THE FAIRVIEW PARK WOMEN'S CLUB

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor the Fairview Park Women's Club of Fairview Park, Ohio for fifty years of dedicated service, friendship, and education.

Chartered in December 1948, the Fairview Park Women's Club is committed to the improvement of the community. This club was founded by over three-hundred women and continues its strong membership today. The club sponsors many events such as refreshments for council meetings and fundraising for its scholarship fund. The Women's Club also is committed to the Hunger Center and makes an effort to donate food to the center at every meeting. The friendship these women have developed over the years through service is truly a lasting hallmark of this organization.

My fellow colleagues, join me in saluting the Fairview Park Women's Club and their accomplishments in the community.

RWANDA GENOCIDE

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Ms. BROWN of Florida. Mr. Speaker, each of us has a moral obligation to remember the past, to tell our children, to leave a written record, and to work towards a brighter future. A few days ago, the Prime Minister of the interim government that directed the 1994 slaughter of hundreds of thousands of ethnic Tutsis in Rwanda pleaded guilty to genocide and agreed to testify against others accused of planning the massacres. We have been told that the Rwanda genocide of 1994 was the worst massacre of human life since the World War II holocaust. Nearly 1 million people were killed in less than 100 days. The world knew the genocide was going to occur. Despite advanced warnings, the world community did not mobilize to stop the horror.

Today, we must ask: What are we doing to help build Rwanda? As legislators, we need to share our expertise with new governments and young democracies in a sincere effort to build peaceful, civil societies. Today, the task at hand for Rwanda is to help Rwandans live together again. The country and its people are trying to endure after being cruelly torn apart. We must help Rwanda survive and build a democratic, free nation.

SIKHS FORM CITIZENS COMMISSION TO INVESTIGATE GENOCIDE IN PUNJAB

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. TOWNS. Mr. Speaker, when the Akali government in Punjab was elected, they promised to appoint a commission to investigate the genocide against the Sikhs since 1984. They have not kept that promise. As a result, Justice Kuldip Singh, the President of the World Sikh Council, announced that he will be appointing a citizens' commission to conduct this investigation, according to an article that ran on April 10 in the "Times of India."

Justice Kuldip Singh said that the commission will be chaired by a retired Supreme Court justice, that it will begin work next month, and that it will submit its report by the end of the year. It will investigate atrocities by militants as well as those by the state and central governments. Since the Akali government took power in Punjab in March 1997, more than 100 atrocities by the state government have been documented.

We should take this opportunity to congratulate Justice Kuldip Singh and all the human-rights activists who provided the impetus for this commission. It is well past time for the truth about Indian genocide in Punjab, Khalistan to come out. This commission is the beginning of that process. Just as the world has begun to learn the truth about the genocide in Armenia over eighty years ago and the Holocaust more than 50 years ago, it is critically important that the world learn the truth

about India's genocide against the Sikhs and the other minorities of South Asia, such as the Christians of Nagaland, the Muslims of Kashmir, the Dalit Untouchables, and others.

Why has the Akali-BJP government in Punjab resisted this probe? The only people who resisted exposure of these other genocide campaigns were those who would be hurt by the revelation. One has to wonder why the Akali government would make itself part of the coverup. In that light, the Citizens Commission is a great step forward. We await their report so that the truth about the genocide in Punjab, Khalistan will come out. I urge the other minorities under Indian rule to create similar commissions to bring out the truth about India's treatment of them as well.

I would like to submit the "Times of India" article as well as the excellent press release on the Commission from the Council of Khalistan. I urge my colleagues to read them.

[From the Times of India, Apr. 10, 1998]

SIKH COUNCIL PANEL TO PROBE PUNJAB VIOLENCE

CHANDIGARH. The World Sikh Council (WSC), headed by former Supreme Court judge Kuldip Singh, has decided to set up a "people's commission" to probe violence in Punjab during the militancy period.

Mr. Singh told reporters that the commission, to be headed by a retired chief justice of the Supreme Court, would start functioning from next month. It is expected to submit its findings by the year end. He said the commission would probe "human rights violation by militants and also the state".

Mr. Singh said the people had the right to know the truth and those who were oblivious to it were likely to repeat history. A constitutional body could not probe this problem, hence the need for setting up such a commission.

Interestingly, the Akali Dal-BJP combine had promised to set up a similar commission on the eve of the assembly elections last year. After coming to power in the state, it abandoned the plan saying such a commission would only open old wounds.

CITIZENS COMMISSION FORMED TO INVESTIGATE GENOCIDE IN PUNJAB

STATE TERRORISM, POLICE BRUTALITY WILL FINALLY BE EXPOSED

Washington, D.C.—The World Sikh Council will appoint a Citizens' Commission to investigate the genocide in Punjab, according to today's edition of The Times of India. Retired Supreme Court Justice Kuldip Singh, President of the World Sikh Council, announced the formation of the commission, which will begin its work next month and is expected to report on its findings by the end of the year, according to the article.

The Punjab state government under Akali Dal Chief Minister Parkash Singh Badal had promised to set up a commission to investigate the genocide, but it broke that promise and now boasts that it has not prosecuted even a single police officer. The Akali Dal is a political ally of the ruling Bharatiya Janata Party (BJP) and currently has two positions in India's central government.

"The Sikh Nation welcomes the formation of this commission," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, the government *pro tempore* of Khalistan. Khalistan is the sovereign, independent Sikh homeland, which declared its independence on October 7, 1987. The Council of Khalistan leads the peaceful, democratic, nonviolent struggle to liberate Khalistan from Indian rule.

"I would like to congratulate Justice Kuldip Singh, as well as General Narinder Singh, Inderjit Singh Jaijee, Dr. Kharak Singh Mann, Dr. Gurdarshan Singh Dhillon, Dr. Sukhjit Kaur Gill, Bibi Baljit Kaur Gill, the Movement Against State Repression (MASR), the Punjab Human Rights Organization (PHRO), and the entire human-rights community in Punjab, Khalistan for maintaining the pressure that led to the formation of this commission," Dr. Aulakh said. "I request the blessing of the Jathedar of the Akal Takht, Bhai Ranjit Singh Ji, and his support for the work of this commission," he said. "The time has come for the full truth about Indian genocide against the Sikh Nation to come out. It is time for the Sikh Nation to unite in support of this effort," Dr. Aulakh said.

Since the Akali Dal government took over in March 1997, over 100 atrocities by Punjab police have been documented, including rape, torture, abductions, and murders. "Disappearances" continue to occur. The state government's own human-rights commission reported that it has received over 200 complaints. Since 1984, the Indian regime has murdered more than 250,000 Sikhs.

"The Armenian community is working hard to get the U.S. Congress to recognize the genocide against the Armenians 80 years ago," Dr. Aulakh pointed out. "The Jewish community has made sure the world never forgets the Holocaust over 50 years ago. The Cambodian genocide in the 1970s is still remembered," he noted. "The only people who resisted exposure of these brutal events were the people who were involved," he said. "The resistance of the Akali government to exposure of the genocide against the Sikh Nation on the flimsy excuse that it would reopen old wounds raises the question of whether they are hiding their own culpability."

RECOGNITION OF SAN BERNARDINO COUNTY SCHOOLS COMMUNITY COALITION PARTNERS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. BROWN of California. Mr. Speaker, I rise today to recognize the hard work and dedication of the teachers, staff and partners involved in the San Bernardino County Schools Community Coalition projects. It is all too infrequent that we take the opportunity to acknowledge and commend those who help improve the lives of our students.

Those who have spent the past several years in Community Coalition projects have contributed a great deal to our community and to the futures of our children. County students benefit from excellent programs in the areas of early literacy, technology, school safety, and career preparation.

It is an honor and privilege for me to recognize the following Community Coalition partners, and to thank them for their dedication and commitment to the children of San Bernardino County. They serve as an example for us all.

Early Literacy: Diane Harlan, Adelanto School District; Celeste Danjou, Apple Valley Unified; Dawn Fletcher, Apple Valley Unified; Sue Rhoades, Apple Valley Unified; Mary Gee, Barstow Unified; Terry Rogers, Barstow Unified; Audrey Howard, Bear Valley Unified; Tina Pelletier, Bear Valley Unified; Donna Libutti, Central School District; Luanne Rhodes, Central School District; Patty DiPaolo, Chino Unified; Audrey Folden, Chino Unified; Helen Rockett, Chino Unified; Hester Turpin, Colton Joint Unified; Ava Gonick, Cucamonga School District; Susan Birrell, Hesperia Unified; Vickie Holman, Hesperia Unified; Aleen Massey, Hesperia Unified; Liz Fragua, Lucerne Valley Unified; Cathy Richardson, Morongo Unified; Joan Carey, Ontario-Montclair School District; Sue Cornell, Ontario-Montclair School District; Lynne Merryfield, Ontario-Montclair School District; Arlene Mistretta, Ontario-Montclair School District; Janie Pierson, Ontario-Montclair School District; Darwin Ruhle, Ontario-Montclair School District; Iris Tramp, Ontario-Montclair School District; Denise Cates, Darnell-Redlands Unified; Caroleen Cosand, Redlands Unified; Jean Fenn, Rim of the World Unified; Carol Besser, San Bernardino City Unified; Londa Carter, San Bernardino City Unified; Denise Dugger, Snowline Joint Unified; Cynthia Freymueller, Snowline Joint Unified; Rachael Emergy, Upland Unified; Judy Lowrie, Upland Unified; Marge Ruffalo, Upland Unified; Laura Chapman, Victor Elementary School District; Luis Iabrra, Victor Elementary School District; Chris Richards, Victor Elementary School District; and Melody Davidsmeier, Yucaipa-Calimesa Joint Unified.

Technology: Jim Roller, Apple Valley Unified; Steve Bailey, Barstow Unified; Cindy Robinson, China Unified; Ruthetta Brandt, Fontana Unified; Leandra Pearson, Hesperia Unified; Kathy Gilbert, Ontario-Montclair School District; Jim Evans, Redlands Unified; Noelle Kreider, Rialto Unified; Alexis Carlson, San Bernardino City Unified; John Patten, San Bernardino City Unified; Bob Watson, San Bernardino City Unified; and Linda Jungwirth, Yucaipa-Calimesa Joint Unified.

Focus on the Future: Judith Pratt, Chaffey Joint Union High School District; Michele Beutler, Fontana Unified; Dr. Bill Clark, Fontana Unified; Carrie Childress, Hesperia Unified; Jeff Drozd, Morongo Unified; Patricia Merriam, Morongo Unified; Skip Brown, Redlands Unified; Laura Brundige, Redlands Unified; Jerry Bennett, San Bernardino City Unified; Geri Kubanek, York-San Bernardino City Unified; Jere Lloyd, San Bernardino City Unified; Leslie Rodden, San Bernardino City Unified; and Pam Stockard, San Bernardino City Unified.

School Safety: Norma Ashworth, Apple Valley Unified; Robert Martinez, Chaffey Joint Union High School District; David Mann, Colton Joint Unified; Beth Henry, Fontana Unified; Sally Foster, Hesperia Unified; Marc Divine, Redlands Unified; Cathy Magana, San Bernardino City Unified; Tim Kelleghan, San Bernardino City Unified; Tina Maeda, San Bernardino City Unified; and Jimmie Jimenez, Yucaipa-Calimesa Joint Unified.

Community Coalition Verbal Judo Instructors: Richard Laabs, Redlands Unified; Michael Vance, San Bernardino County Schools; Debbie Fairfax, Upland Unified; and Joe Kaempher, Victor Valley Union High School District.

CELEBRATING LISA KAPLAN'S BAT MITZVAH

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. BLAGOJEVICH. Mr. Speaker, I rise today to send a special congratulations to Lisa Kaplan, who will celebrate her Bat Mitzvah on Friday, May 8. The ceremony marks a culmination of religious study and community work that is a point of pride for her parents, James and Allin, as well as the many friends of the Kaplan family.

Lisa is an outstanding young woman with a very bright future ahead. Lisa attends Daniel Wright Junior High School in Lake Forest, Illinois. She's involved in many varied activities including student council, performing trumpet in the band, and playing on the baseball team. Lisa has distinguished herself academically by making the honor roll and being named to the National Junior Honor Society. Outside of school, Lisa has committed herself to being a regular participant in her synagogue and is an active student of Jewish tradition. And in her home, Lisa has been a loving daughter to her parents and a loving sister to her siblings.

The Bat Mitzvah ceremony will be just the first step in Lisa's coming of age and the assumption of adult responsibilities. This is deservedly a proud moment for the Kaplan family, and I welcome Lisa's increased involvement in our schools, church, and community.

REAUTHORIZATION OF THE NATIONAL ORGAN TRANSPLANT ACT

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. MOAKLEY. Mr. Speaker, I rise today to support the reauthorization of the National Organ Transplant Act (NOTA). On behalf of the thousands of American patients currently awaiting a lifesaving organ, the many dedicated physicians, surgeons and scientists actively engaged in the research and practice of transplantation, I ask my colleagues to support the reauthorization of NOTA.

As many of my colleagues know, two and a half years ago I underwent a successful liver transplant that saved my life and literally gave me a second chance. However, there are others that are not as fortunate as I was. Currently, there are over 58,000 people waiting for a lifesaving donor organ and an estimated eight people a day die waiting for an organ transplant. These alarming statistics translate into an increase of 255 percent over the last ten years. Although there have been many new scientific advances in the field of solid organ transplantation over the last eight years, the major obstacle continues to be that the demand for donor organs remains far less than the supply.

Given the rapid scientific advancements and increasing numbers of patients requiring organ transplants, I believe that it is imperative to reexamine and update the nation's system for organ donation and transplantation. Over the last 30 years, transplantation of solid organs has moved from experimental to accepted therapy, with over 20,000 transplants performed in 1997 alone. I am living proof that transplantation works, it saves lives and it improves the quality of people's lives. The success of this procedure has improved greatly over the last few years with almost all solid organ recipients enjoying an 83 to 97 percent survival rate at one year. However, despite improved survival rates there still remains a serious donor shortage in this country and we must do more to increase awareness as to the importance of organ donation.

Mr. Speaker, I ask my colleagues to support the reauthorization of the National Organ Transplant Act. More importantly, I would urge my colleagues to talk to their families and loved ones about organ donation and make their intentions known so that someone can receive the "gift of life."

SUBMITTED IN SUPPORT OF H.R. 3605, "THE PATIENTS' BILL OF RIGHTS ACT"

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. MARKEY. Mr. Speaker, today I join with Representatives JOHN DINGELL and GREG GANSKE, Leader DICK GEPHARDT, Leader TOM DASCHLE, Senator TED KENNEDY, Senator BARBARA BOXER, and the many patient and health groups, in support of H.R. 3605, the Patients' Bill of Rights Act. We all owe a debt of gratitude to Congressman DINGELL for his strong and sure leadership on this issue; Mr. DINGELL got involved early, pulled the key players together and produced an excellent bill which will, in fact, protect patients once enacted. I want to say a special word of thanks to Representative GREG GANSKE, with whom I have been working closely for some time on the Patient Right to Know Act (H.R. 586) which would ban gag clauses from managed care plans. His power of persuasion over some of his Republican colleagues to join him in cosponsoring the Patients' Bill of Rights Act will be very helpful in passing a managed care reform bill this year.

Representative GANSKE and I have been involved for quite some time in putting together a bill which would prohibit managed care plans from restricting the medical communications between doctors and patients based on what the plan did and did not cover. Our bill was based on a very simple premise: when you're a patient, What you don't know can hurt you. And our anti-gag clause bill, which now has 300 co-sponsors, is included in the Patients' Bill of Rights Act.

The Patients' Bill of Rights Act expands on that principle. It says: What you don't know and don't have access to and aren't protected from can hurt you.

That's why the Patients' Bill of Rights Act makes it possible for people to have some choice of plans, access to specialty and emergency care, and direct access to OB/GYN care and services for women.

That's why the Patients' Bill of Rights Act makes it possible for patients to get more information about their health plans, and have greater faith that the confidentiality of their medical records will be protected.

And that's why the Patients' Bill of Rights Act recognizes that patients are also health care consumers and establishes strong consumer protection standards, internal and external grievance procedures, and measures which respect and protect the provider-patient relationship.

When President Clinton delivered his State of the Union speech on January 27—99 days ago—one of the single most sustained waves of applause followed the President's call to action for Congress: to pass a consumer bill of rights and responsibilities for America's patients. Well, tomorrow, we will hit Day 100 of total inaction. The American people are demanding that Congress fill their managed care reform prescription—the Republican leadership should fill that prescription with the Patients' Bill of Rights Act.

Once again, I'd like to thank Congressman DINGELL, Senator KENNEDY, our Leaders and all of my colleagues who are working so hard to move this legislation forward.

MEDICARE: THE NEED FOR ADMINISTRATIVE FUNDS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. STARK. Mr. Speaker, Members constantly decry the problem of fraud, waste, and abuse in Medicare—and constantly underfund the agency that is responsible for administering Medicare.

It is Congressional hypocrisy at its height. No one should criticize the administration of Medicare who does not support more resources for the beleaguered Health Care Financing Administration.

Following is an excellent article by Julie Rovner of the National Journal's Congress Daily, entitled Congress v. HCFA: Bureaucracy Bashing 101.

I would just add to Ms. Rovner's article that when HCFA sought $16 million this spring it paid for it by offering to slash $16 million from another Medicare-related account—but even that was denied by the micro-managing Congress.

Medicare beneficiaries should know who to blame when they are unable to get their questions answered from HCFA: it is the Congress that should be blamed.

[From the National Journal's Congress Daily, Apr. 23, 1998]

CONGRESS V. HCFA: BUREAUCRACY BASHING 101

(By Julie Rovner)

Frustrated politicians like to point out how hard it can be to please constituents who simultaneously demand contradictory things—like those voters who all at once want increased spending, tax cuts, and no new additions to the deficit. But sometimes, the politicians themselves behave just as inconsistently.

Take the Health Care Financing Administration, known—and almost universally derided—as HCFA (pronounced Hickfa). The HHS subunit that oversees Medicare, Medicaid, and, since last year, the new children's health insurance program, HCFA is the agency politicians most love to hate. In 1992, when he was running for president, candidate Clinton in his "Putting People First" manifesto vowed to "scrap [HCFA] and replace it with a health standards board made up of consumers, providers, business, labor and government."

In short, anybody except bureaucrats.

During the heated Medicare debate of 1995, Speaker Gingrich claimed he never meant to suggest Medicare would "wither on the vine" under the GOP's budget plan, merely HCFA.

But Congress' second favorite pastime, after beating up on HCFA, seems to be giving the agency even more work to do. Since 1996, three different bills have increased HCFA's responsibilities exponentially.

"It's the greatest workload in the history of the agency," said Harvard Professor Joseph Newhouse, vice chairman of the Medicare Payment Advisory Commission.

And it is not like HCFA was a sleepy bureaucratic backwater: Running Medicare and Medicaid already required it to supervise the healthcare programs that will serve nearly 75 million Americans in 1998 and cost the federal government $300 billion in 1997, 18 percent of the entire federal budget.

HCFA's latest onslaught began in 1996, with passage of the Health Insurance Portability and Accountability Act. Not only did HIPAA give the agency broad new responsibility to root out fraud and abuse in Medicare (the accountability part), it also made HCFA the fallback enforcement agency for states that failed to pass their own laws to implement the portability part. As of now, that includes five states: Rhode Island, Massachusetts, Missouri, Michigan, and California.

Later that fall, Congress ordered HCFA to implement provisions tacked onto the VA-HUD appropriations bill barring "drive through" baby deliveries and requiring limited parity for mental health coverage.

But that was only an appetizer. Last year's Balanced Budget Act, according to HCFA Administrator Nancy-Ann Min DeParle, gave the agency about 300 new tasks.

In Medicare alone, the agency is expected to devise new payment systems for home health, hospital outpatient, and nursing home care; a new "risk adjuster" and new payment methodologies for managed care plans; and rules for new "provider-sponsored organizations." And that is not to mention devising how to inform Medicare's 39 million beneficiaries about a vast array of new "choices" available to them this fall.

At the same time, HCFA is responsible for approving each state's new children's health insurance program, and for helping states locate and enroll the millions of children eligible but not yet signed up for Medicaid.

With that much more to do, you might think Congress would also give HCFA more money to do it with. But it is so easy to bash the bureaucracy that the Senate could not resist striking HCFA's request for an additional $16 million for FY98 during consideration of the supplemental appropriations bill last month.

HCFA officials said $6 million of that request was to hire workers to enforce HIPAA in states that have yet to pass their own legislation. The states in question contain a total of 54 million citizens. "The work requires knowledge and expertise in the area of health insurance regulation at the state level," said the agency in its supplemental request. "The nature of this work is totally unlike that performed by HCFA's workforce."

But that plea fell on deaf ears. "Do we want to turn that much additional bureaucracy over to HCFA, that much more money, or can't they borrow some more of those employees that they now have who are probably reading through reports that are obsolete and maybe not doing so much good?" asked Senate Majority Whip Nickles on the floor March 25.

Evidently they can, according to the Senate. Members adopted Nickles' amendment to strip the funding from the bill after defeating, 51–49, an attempt by Senate Labor and Human Resources ranking member Edward Kennedy, D-Mass., to keep only half the money.

The result of all this, says former CBO Director Reischauer, is "setting HCFA up" for failure. "It's classic Congress," he said. "There's no way HCFA can accomplish the changes Congress has asked [it] to do. Then [Congress] will be back in two years having oversight hearings about how HCFA failed to do its job."

Mark your calendars now.

CONGRATULATIONS TO PRESIDENT LEE-TENG-HUI OF CHINA ON TAIWAN

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. McDERMOTT. Mr. Speaker, I would like to congratulate and extend my best wishes to President Lee Teng-hui and Vice President Lien Chin of the Republic of China on Taiwan on their second anniversary in office on May 20, 1998.

In the last few years, Taiwan has continued to prosper, having survived the latest financial crisis. As the world's fourteenth largest economic entity, Taiwan plays a significant part in global trade and Asian economies. Taiwan's per capita income of 13,000 U.S. dollars, one of the highest in Asia, provides a rich market for U.S. consumer goods.

Alongside its economic success, Taiwan has embarked upon a course of full democratization, including the free and direct election of the president, political pluralism, press liberalization, island-wide elections and a full constitutional reform.

The Republic of China on Taiwan is a showcase of free enterprise and democracy at work. Much of Taiwan's success is directly attributable to its leadership.

Congratulations to our friends in Taiwan.

PERSONAL EXPLANATION

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. FOSSELLA. Mr. Speaker, I wanted to take this opportunity to inform you that I was unable to attend the session of the House of Representatives on May 5, 1998 and for a portion for May 6, 1998. My absence was due to the fact that my son Dylan Fossella was hospitalized and had to undergo surgery.

I would like the RECORD to reflect that I would have voted in favor of the passage of H.R. 1872, H. Res. 267 and H. Con. Res. 220.

50TH WEDDING ANNIVERSARY OF MR. AND MRS. LUKIEWSKI

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. BORSKI. Mr. Speaker, I rise today to congratulate and honor a truly remarkable couple from my Congressional district, Mr. and Mrs. Edward and Stella Lukiewski. On May 8th, the couple will celebrate their Golden Anniversary—fifty years of marriage. Their story begins when the young couple grew up just two blocks from one another in the Port Richmond section of Philadelphia. They even attended the same grade school, but would not meet until after their graduation. The couple first encountered one another when Mr. Lukiewski returned for a brief time during the second World War. Unfortunately, Mr. Lukiewski returned to the Pacific and would have to wait quite sometime before they would once again see each other.

Soon after Mr. Lukiewski's return the couple began to date and on May 8, 1948 they were wed in St. Adalbert's Church in Philadelphia, Pennsylvania. It was the same church that they had both received all of their sacraments while growing up. Immediately after their marriage, Mr. and Mrs. Lukiewski moved into a humble apartment across from St. Adalbert. They would live here until it was time to start a family. The couple then moved to the Mayfair section of Northeast Philadelphia where they would spend the next twenty years. Mr. and Mrs. Lukiewski are the proud parents of seven children, and eleven grandchildren, three of them being a group of triplets.

Mr. Lukiewski has been a retired Army Reserve Colonel for the past ten years. He served in Europe and the Pacific during the World War II and is an actual veteran of the Normandy invasion. For the past three years he has also been actively retired after twenty-five years of service as President and C.E.O. of the Polonia Bank, of Philadelphia. Mr. Lukiewski now spends one day a week working for the St. Joseph's Villa retirement home where he helps in the daily responsibilities of the home. Whether it is supplying the patients with ice water, supplies, or just friendly conversation, Mr. Lukiewski is always available for help.

Mrs. Lukiewski is the devout and yet easy going mother of the couple's seven children. She is quite active in their local church, St. James' Parish in Cheltenham, and in the Retired Officer's Association of the Willow Grove Naval Air Station. Mrs. Lukiewski was also the president of the Woman's Club, and still remains a member of that organization. The couple has been in their present Cheltenham home now for fifteen years.

On May 9th the couple is renewing their vows in the same church in which they were

wed in, fifty years ago. Several members of the original wedding party will attend the celebration, as well as numerous friends and relatives. A number of the couple's grandchildren will be offering the gifts and performing the readings for the ceremony. Monsignor Francis Ferret will be officiating the mass, accompanied by Monsignor Lee Korda, and Reverend Raymond Himsworth.

Mr. Speaker, I am more than honored to congratulate this beautiful couple on their outstanding fifty years of marriage. I hope that the love shared between these two people is a model for us all, let us all share equal success and happiness that this couple has endured. I wish Mr. and Mrs. Edward and Stella Lukiewski fifty more years of utter happiness and marriage.

WELCOMING CLYDE DREXLER AS THE NEW BASKETBALL COACH FOR THE UNIVERSITY OF HOUSTON COUGARS

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. GREEN. Mr. Speaker, I would like to welcome the new basketball coach for the Cougars at the University of Houston—Clyde Drexler.

Clyde Drexler is truly a coach who not only understands the game but understands basketball in Houston—both collegiate—the Houston Cougars and national—the Houston Rockets.

A perennial All-Star and a member of the 1992 Olympic Dream Team, Drexler twice led the Blazers to the NBA finals. It wasn't until he joined the Houston Rockets midway through his 12th campaign, however, that he finally earned a championship ring.

He has been a leading scorer at 18.5 points per game for the Rockets. The 10-time All-Star missed six games in January with an injured shoulder.

He spent the first 11½ seasons of his career with the Portland Trail Blazers before getting traded to the Rockets on February 14, 1995.

As a forward in college, Drexler along with fellow current Rocket teammate and All-Star Hakeem Olajuwon, formed a front line that took the University of Houston's "Phi Slama Jama" team to two straight trips to the NCAA Final Four in the early 80s.

Drexler starred at the University of Houston from 1980–1983. He currently ranks 13th on the school's all-time scoring list with 1,383 points.

As a player in the NBA, Clyde has always been recognized for his character and poise in the public spotlight. Now he will have the opportunity to teach a new generation of basketball players how to conduct themselves with dignity and professionalism both on and off the court.

Drexler will provide young basketball players with the determination and guidance needed to succeed in basketball both at the collegiate and national level.

I am glad to welcome him as the coach for the Houston Cougars. But more importantly, I wish him and the team good luck on Drexler's first season as coach.

PAKISTANI ROLE IN NUCLEAR PROLIFERATION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. PALLONE. Mr. Speaker, I rise to bring to the attention of the members of this House, and of the American people, some recent, disturbing information about the continued role of Pakistan in the transfer and proliferation of nuclear weapons and delivery systems.

Last month, the U.S. State Department determined that sanctions should be imposed on Pakistan, pursuant to the Arms Export Control Act. This decision comes in the wake of the determination that entities in Pakistan and North Korea have engaged in missile technology proliferation activities. According to the notice published in the Federal Register of May 4, 1998, Khan Research Laboratories in Pakistan, and Changgwang Sinyong Corporation, also known as the North Korea Mining Development Trading Corporation, are subject to sanctions including denial of export licenses, a ban on United States Government contracts with these entities, and a ban on importation into the U.S. of products produced by these two entities. The sanctions are in effect for two years.

Although the sanctions seem relatively modest, I still want to applaud the Clinton Administration for imposing the sanctions on these companies. I hope that enforcement efforts against these and other firms involved in the proliferation of missile technology will remain strong.

As if this recent disclosure about Pakistani nuclear missile technology with North Korea were not shocking enough, there are reports this week that the International Atomic Energy Agency (IAEA) is investigating whether a leading Pakistani scientist offered Iraq plans for nuclear weapons. The information, first reported in Newsweek magazine, has been confirmed by the IAEA. According to the report, in October 1990, prior to the Persian Gulf War—but after the Iraqi invasion of Kuwait, while our troops were massing in Saudi Arabia under Operation Desert Shield—a memorandum from Iraq's intelligence service to its nuclear weapons directorate mentioned that Abdul Qadeer Khan, the Pakistani scientist, offered help to Iraq to "manufacture a nuclear weapon," according to Newsweek. The document was among those turned over by Iraq after the 1995 defection of Saddam Hussein's son-in-law, Lt. Gen. Hussein Kamel, who ran Iraq's secret weapons program.

The Pakistani Government has denied the report, and the IAEA has not yet made any determination. But this report is part of a very troubling pattern involving Pakistan and efforts to either obtain nuclear weapons and delivery systems, or to share this technology with other unstable regimes.

Recently, Pakistan test-fired a new missile, known as the Ghauri, a missile with a range of 950 miles, sufficient to pose significant security threats to Pakistan's neighbors, including India, and to launch a new round in the South Asian arms race. I am pleased that the recently elected Government of India has demonstrated considerable restraint in light of this threatening new development, a view echoed by the U.S. Delegation that travelled to the region recently with our U.N. Ambassador Bill Richardson.

While I welcome the sanctions against North Korea, I remain very concerned that China is also known to have transferred nuclear technology to Pakistan. Our Administration has certified that it will allow transfers of nuclear technology to China—a move I continue to strongly oppose.

Mr. Speaker, for years, many of our top diplomatic and national security officials have advocated a policy of appeasement of Pakistan, citing that country's strategic location and cooperation in Afghanistan. I think that the time has long since passed for us to reassess our relationship with Pakistan. The two developments I cited today—sanctions over missile technology proliferation with North Korea and allegations of efforts to provide nuclear weapon technology to Iraq—are only the latest developments. North Korea, a closed society, the last bastion of Stalinism, is also one of the potentially most dangerous nations on Earth. The U.S. has been trying to pursue policies to lessen the threat of nuclear proliferation from North Korea. Now we see that Pakistan is cooperating with North Korea on missile technology.

And, Mr. Speaker, I don't need to remind you and the American people of American concerns about Saddam's regime in Iraq. Yet, now credible reports have surfaced suggesting the possibility of nuclear cooperation between Iraq and a top Pakistani scientist.

Concerns about Pakistani nuclear weapons proliferation efforts have been a concern for U.S. policy makers for more than a decade. In 1985, the Congress amended the Foreign Assistance Act to prohibit all U.S. aid to Pakistan if the President failed to certify that Pakistan did not have a nuclear explosive device. Known as the Pressler Amendment, for the former U.S. Senator who sponsored the provision, it was invoked in 1990 by President Bush when it became impossible to make such a certification. The law has been in force since, but we have seen ongoing efforts to weaken the law, including a provision in the FY 98 Foreign Operations Appropriations bill that carves out certain exemptions to the law. Several years ago, $370 million worth of U.S. conventional weapons to Pakistan, which had been tied up in the pipeline since the Pressler Amendment was invoked, was shipped to Pakistan. And there is the ever-present specter of U.S. F–16s, the delivery of which was also held up by the Pressler Amendment, being delivered to Pakistan.

Mr. Speaker, Pakistan has continued to take actions that destabilize the region and the world. Providing and obtaining weapons and nuclear technology from authoritarian, often unstable regimes is a pattern of Pakistani policy that is unacceptable to U.S. interests and the goal of stability in Asia. Pakistan is a country that faces severe development problems. Its people would be much better served

if their leaders focused on growing the economy, promoting trade and investment and fostering democracy. U.S. policy needs to be much stronger in terms of discouraging the continued trend toward destabilization and weapons proliferation that the Pakistani government continues to engage in.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. KIND. Mr. Speaker, here we go again. The Republican leadership of the House of Representatives have repeatedly broken their promise to the people of this country about campaign finance reform. First the leadership refused to allow any vote on campaign finance to come to the floor. Next they brought forward a series of sham bills that, through the use of parliamentary tricks were destined to fail. Then, under pressure from a discharge petition, they finally relented and agreed to allow a vote before May 15. Now we hear that the leadership is going to delay a vote on campaign reform until mid-June. How many more times will the Republican leadership break their word to the public?

I am outraged by the leadership's continued effort to stall on this crucial issue and I rise today to demand that we vote on campaign finance reform next week. This issue has been debated extensively, there is an excellent bill, H.R. 2183, which is ready to be voted on, and any further delay is unnecessary. It is time for the Republican leadership to finally keep their word and allow a vote on campaign finance reform. The people of my district will not accept "no" for an answer.

ST. ROSE RESIDENCE: 150 YEARS OF CARING

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. BARRETT of Wisconsin. Mr. Speaker, on May 9th, friends of St. Rose Residence are gathering in Milwaukee to celebrate the program's sesquicentennial anniversary. I appreciate the opportunity to share with my colleagues the story of this exceptional residential care program.

A few weeks before President Polk enacted legislation admitting Wisconsin to the Union, the Daughters of Charity accepted the responsibility of caring for a young girl whose parents had died during the family's long voyage from Ireland to Milwaukee. The Sisters recognized that the need for shelter, care and education for parentless girls would grow as the City of Milwaukee developed. With the support of the Catholic Diocese of Milwaukee, the order constructed a building in what is now downtown Milwaukee and, in 1850, incorporated the organization under the name St. Rosa's.

During the latter half of the 19th Century, the Sisters constructed a new home on Milwaukee's east side with room to shelter over 100 girls. Under the administration of the Archdiocese of Milwaukee and with the support of the United Way of Milwaukee, St. Rose brought onboard a staff of social workers, child care workers, teachers and other professionals. During the 1970s, St. Rose was incorporated as an independent agency and moved to its present home on Milwaukee's west side. The addition of an activity center in 1988 and a school in 1995 allowed St. Rose to expand and enhance the recreational and educational opportunities available to the girls under its care.

The spirit of community and shared purpose runs deep in my home state, and when Wisconsinites find a need unmet, they work together and find a way to meet it. St. Rose Residence is a remarkable example of this spirit. That spirit—the commitment to serve the community by uplifting its most helpless—gives Wisconsin, and St. Rose Residence, cause to look back on the last 150 years with pride and to look forward to the next 150 years with confidence.

Mr. Speaker, I ask that the House join me in congratulating St. Rose Residence on 150 years of caring service to Wisconsin children and families.

TRIBUTE TO SENATOR ROBERT C. BYRD OF WEST VIRGINIA ON THE CASTING OF HIS 15,000TH VOTE IN THE UNITED STATES SENATE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 6, 1998

Mr. RAHALL. Mr. Speaker, I rise to recognize and to commend West Virginia's senior Senator, ROBERT C. BYRD, on the occasion of having cast his 15,000th vote in the United States Senate.

Having cast that 15,000th vote on May 5, 1998 marks consistent voting by Senator BYRD for over 40 years, giving him a voting average of 98.7 percent for his entire tenure, and earns for him the title of most votes cast by any Senator in the history of the United States Senate.

I believe it is only fitting to note that his 15,000th vote was cast in favor of the "Workforce Investment Partnership Act of 1998", because no Member of the U.S. Senate has done more to provide for the training and education of this nation's workforce than Senator ROBERT C. BYRD. His understanding and devotion to the needs of his West Virginia constituents, and particularly his well documented efforts to ensure a strong economy in our State, has included his enormously successful efforts on behalf of securing jobs for the unemployed.

Senator ROBERT C. BYRD has been setting voting records in the Senate since he was sworn in early in 1959. On January 8, 1959, Senator BYRD cast his first vote in the U.S. Senate. Fittingly, it was a vote on Senate procedure. On April 27, 1990, the Senator cast his 12,134th vote, earning him the record for greatest number of rollcall votes in Senate history. On July 27, 1995, he became the first Senator in history to cast 14,000 votes, and he has now built on his record number of rollcall votes to be the first person in Senate history to cast 15,000 votes.

In a historical context, Senator BYRD cast the first of his 15,000 votes with Senators John Kennedy and Lyndon Johnson, both of whom were there in the Chamber with him. When he cast his first vote, Hawaii was not yet a State, and the United States had not yet put a man in space.

For 40 years, Senator BYRD has managed to run to Senate as Majority Leader, chaired the Senate Appropriations Committee, and has studied and written volumes on the history of the Senate, earning his place as the unrivaled expert on Senate rules.

In the future, scholars and historians will write about Senator BYRD's remarkable impact on the Senate, as an orator, a parliamentary expert, a Senate historian, a legislative tactician, and an outstanding leader.

Most certainly, he is all of those things.

But more than that, he is the most revered, most beloved, most respected, member of Congress that his proud State of West Virginia has ever sent to Washington to represent them.

As a historian himself, Senator BYRD is now a part of history, and will be always remembered for both the quantity and quality of his work, his service to his fellow Senators, and his unstinting service to West Virginians for nearly half a century.

Certainly, no man or woman who has ever served in that body has ever loved the Senate, as an institution, more than Senator ROBERT C. BYRD, nor shared in the great esteem and honor the title of Senator has given to him. On May 5, 1998, as he made history in the Senate, he referred to himself as ". . . a prince who still glories in the name of "Senator." To him, it is and has always been a position of trust—a trust he has honored all of his life.

Congratulations, Senator BYRD, on the occasion of casting your 15,000th vote, and for having been the only U.S. Senator in the life of the Senate to achieve that pinnacle.

But more, I congratulate you for inspiring others, and encouraging both young and old alike to aspire to dignity, to knowledge, to trust and to honor whether they are your colleagues in the U.S. Senate, or a young student somewhere wondering whether he or she should think of becoming a public servant.

I had the high honor of serving on Senator BYRD's staff before returning to West Virginia and running for public office. I know first-hand of Senator BYRD's example that encourages and inspires others to also serve their country by seeking public office.

On May 5, 1998, Senator BYRD wondered where today's heroes are—who, he wondered will the youth of today look up to as their heroes.

Well, one of today's hero's resides in the United States Senate where, by example, he inspires and encourages all within the sound of his voice, and his name is ROBERT C. BYRD.

I wish to convey to my friend, my mentor, my colleague Senator BYRD, my highest esteem, my deepest personal respect, and my overwhelming pride in him as a strong and

most distinguished man, as a loving husband, father and grandfather, and as a greatly honored and trusted United States Senator from West Virginia.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 7, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 8

9:30 a.m.
Joint Economic
To hold hearings to examine the employment-unemployment situation for April.
1334 Longworth Building

MAY 11

2:00 p.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense.
SD–192

MAY 12

9:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense BRAC environmental programs.
SD–138

9:30 a.m.
Indian Affairs
To hold hearings on proposed legislation to revise the Indian Gaming Regulatory Act of 1988, focusing on lands into trust for purposes of gaming.
Room to be announced

2:00 p.m.
Foreign Relations
To hold hearings on S. 1868, to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide, to authorize United States actions in response to religious persecution worldwide, to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council.
SD–419

MAY 13

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1999 for the Department of Defense.
SD–192

Foreign Relations
To hold hearings on the Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Ex. B, 95th Cong., 1st Sess.), the International Convention for the Protection of New Varieties of Plants (Treaty Doc. 104–17), the Grains Trade Convention and Food Aid Convention (Treaty Doc. 105–4), the Convention on the International Maritime Organization (Treaty Doc. 104–36), and the Trademark Law Treaty (Treaty Doc. 105–35).
SD–419

2:00 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine the economic and political situation in India.
SD–419

MAY 14

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on the Department of Agriculture's Year 2000 compliance.
SR–332

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine the safety of food imports.
SD–342

Small Business
To hold hearings on the nomination of Fred P. Hochberg, of New York, to be Deputy Administrator of the Small Business Administration.
SR–428A

1:30 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine United States policy toward Iran.
SD–419

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on titles IX and X of S. 1693, to renew, reform, reinvigorate, and protect the National Park System, and S. 1614, to require a permit for the making of motion picture, television program, or other forms of commercial visual depiction in a unit of the National Park System or National Wildlife Refuge System.
SD–366

MAY 18

2:00 p.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the role of faith-based charities in the District of Columbia.
SD–342

MAY 19

10:00 a.m.
Labor and Human Resources
To hold hearings to examine grievance procedures in the health care industry.
SD–430

MAY 20

10:00 a.m.
Indian Affairs
Business meeting, to mark up S. 1691, to provide for Indian legal reform.
SR–485

MAY 21

10:00 a.m.
Labor and Human Resources
To hold hearings on genetic information issues.
SD–430

2:00 p.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold hearings on S. 1141, to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and S. 1418, to promote the research, identification, assessment, exploration, and development of methane hydrate resources.
SD–366

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

CANCELLATIONS

MAY 7

9:30 a.m.
Labor and Human Resources
To hold hearings on organ allocation and the Organ Procurement Transplant Network (OPTN) regulation.
SD–430