SENATE—*Thursday, June 18, 1998*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Reverend Pablo Gonzales, Chief of the Chaplain Service, Veterans Affairs Medical Center, Huntington, WV.

We are very pleased to have you with us.

PRAYER

The guest Chaplain, the Reverend Pablo L. Gonzales, offered the following prayer:

Join me in prayer this morning.

Eternal God, Creator and Redeemer of our great Nation, we lift our hearts, minds, and souls to You on this day of mercy. We humble ourselves before Your omniscience and omnipresence.

Father, we confess to You this day that we are dependent on You. Without You, we can do nothing. We rely on Your grace, on Your mercy, and on Your love to direct this Nation.

We pause to take time away from our busy schedules and from all the many activities to come before Your divine presence. As we humble ourselves before You, pour upon this Senate Your divine Spirit. Allow Your Spirit to flow and give the gifts of wisdom, understanding, and discernment to rest upon the lives of these men and women. We also lift up their families who pay a price of loneliness and sacrifice to this Nation. Be with them, Lord, and keep disease and injury away from them.

Father, lead us beside the still waters. Draw us away from our own agenda and help us to see Your unique perspective. Bless this day, for all things are in Your hands. In Your Name we pray, and all say amen. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Washington, is recognized.

SCHEDULE

Mr. GORTON. Mr. President, this morning the Senate will immediately resume consideration of the energy and water appropriations bill. Senator REID and I hope that Members who wish to offer amendments to the energy and water bill will come to the floor during today's session to offer and debate their amendments under short time agreements. Therefore, rollcall votes are possible during today's session of the Senate.

The majority leader would like to remind Members that the Independence Day recess is fast approaching, and therefore the cooperation of all Members will be necessary to make progress on a number of important items, including appropriations bills, any available conference reports, the Higher Education Act, the Department of Defense authorization bill, and any other legislative or executive items that may be cleared for action.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). Under the previous order, the leadership time is reserved.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Chair now lays before the Senate S. 2138, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2138) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Bob Perret, a congressional fellow in my office, have floor privileges during the pendency of this bill.

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

Mr. REID. Mr. President, yesterday the chairman of the Energy and Water Subcommittee and I came to the floor with this bill, the fiscal year 1999 appropriations bill, for the programs, projects, and activities of the Department of Energy, Corps of Engineers, the Bureau of Reclamation, and other independent agencies. I support this $21 billion bill. It is not a perfect bill, but it is a very good bill. We worked under very extreme conditions in order to get the bill to the point that we have. This is a balanced bill. We did our best to accommodate everyone's priorities and projects.

Mr. President, on the way back to my office yesterday evening I was with some of the staff, and I asked one of the staff, "What is that you're carrying?" And I am not exaggerating, it was a folder, a big looseleaf notebook. And he said they were the requests from Members for projects in this bill.

We did our best. We did not make everyone happy. We tried to make sure that we had a balanced approach so that States could meet their needs.

We did not get all the cooperation that I would like to have had from the administration. They cut $1.5 billion from water projects. This left us with projects unfinished, left us with projects that simply needed to go forward. So we had to rearrange this pot to the point we are now here.

So I recommend this bill to my colleagues. This is a bill that includes about $21 billion for essential services in the Department of Energy and the construction and maintenance of water projects around the Nation.

I hope that, as my friend from Washington has said, Members will come forward and offer amendments. We have a limited amount of time. And I would suggest that if we do not get some amendments coming soon—this a very important appropriations bill—that we should move to third reading and move on to something else.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2713

Mr. GORTON. Mr. President, on behalf of Senator DOMENICI, for Senator INOUYE, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for Mr. INOUYE, proposes an amendment numbered 2713.

Mr. GORTON. 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 18, add the following before the period:

": *Provided further*, The Secretary of the Interior is directed to use not to exceed $200,000 of funds appropriated herein to provide technical assistance in a study of measures to increase the efficiency of existing water systems developed to serve sugar cane plantations and surrounding communities in the State of Hawaii".

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be set aside so that other Members may, if they wish, offer first-degree amendments.

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

Mr. REID addressed the Chair.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The PRESIDING OFFICER. The Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. I interrupt my friend from Washington and ask unanimous consent that a fellow from the office of Senator JEFFORDS of Vermont, Lisa Carter, be granted privileges of the floor during consideration of the energy and water appropriations bill.

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

Mr. GORTON. Mr. President, our desires not yet having been met, 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. DASCHLE. 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. 2714

(Purpose: To add provisions of Amendment No. 2420 relating to tobacco policy)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 2714.

Mr. DASCHLE. Mr. President, I ask unanimous consent 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. GORTON. Mr. President, I suggest the absence of a quorum.

Mr. DASCHLE. Mr. President, I have the floor; do I not?

The PRESIDING OFFICER. The minority leader has the floor.

Mr. DASCHLE. Mr. President, I won't be long. I will accommodate the manager of the bill.

Let me just say this is an amendment that reflects where we were yesterday on what we consider to be one of the most important issues facing our country. I am hopeful that we can come back to this legislation again, as we debated it yesterday. The tobacco bill may have died last night, but the tobacco issue is very much alive.

We have noted that as legislation is presented to the Senate we have no recourse but to continue to press for final consideration, to get a vote, and ultimately to pass legislative changes that will allow us to confront the remarkable problems that we are facing in our country today. In South Dakota, 45 percent of teenagers now are addicted to smoking or are smoking—45 percent. Every day, thousands of children continue to light up for the first time.

Many of us feel that even though we lost parliamentarily yesterday, that we have no choice but to continue to press this issue, to continue to force the Senate to consider ways with which to resolve this matter.

As I said, there ought to be principles that unite us, principles that Republicans and Democrats can agree with, principles that would allow the FDA to regulate tobacco as a drug, principles that would allow us to come up with an orchestrated national effort to discourage smoking among teenagers, principles that recognize the importance of research as we continue to confront the myriad of health problems that are directly related to smoking and addiction. Those are principles that ought to unite us.

I don't think anyone ought to come to any conclusion that somehow because the McCain bill died last night that we now can wash our hands of this issue, that we now are going to move that aside and think that everything is just fine with regard to the schedule or with regard to this particular issue. It isn't. We are not going to be fine until we have come to some conclusion about this. It doesn't really matter what legislation comes before the Senate. We are going to be compelled, either in the form of amendment or in a motion to proceed, to force the Senate, to whatever extent we can, to stay focused on this issue until we resolve it. We are open for suggestions on how we might break this impasse, how we might resolve this matter. We are certainly prepared to sit down with our colleagues and come up with a piece of legislation that will work.

We will not let this issue die. We believe very strongly that it must continue. That is, in essence, what this amendment does. This amendment, for the information of all of my colleagues, simply takes us back to the McCain bill and the managers' amendment. The managers' amendment was added after a great deal of consultation with Members on both sides of the aisle. The managers' amendment and the McCain bill passed, I remind my colleagues, on a vote of 19–1 out of the Commerce Committee.

So this is an opportunity, once again, to use a vehicle to start the negotiations to allow us to come to closure on this issue. I had hoped we could do it sooner rather than later. This is an important bill. I hope we can get on to energy and water. I hope we can deal with all of the appropriations bills. Those bills have to be dealt with, but at the same time, many of us believe that tobacco has to be dealt with as well. Our effort to deal with it will have to be in the form of amendments or in the form of our motions to proceed so long as we haven't found any closure on how we ultimately resolve this very, very important national issue.

I hope we can have a good debate on this amendment. I hope we can have some good give-and-take about what we might do, as a Senate, Republicans and Democrats, to break this impasse and ultimately to pass meaningful tobacco legislation this month.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, as the Democratic leader said, what he has proposed now is that instead of dealing with the normal appropriations bills before the Senate, we should go back to a debate which has taken the last 4 weeks of the Senate's time and ignore everything else that is appropriate in the Senate business.

Last evening, in the last vote, his position fell eight votes shy of getting a necessary budget waiver because of its immense cost to the people of the United States. This proposal, obviously, is equally subject to such a point of order, one that I expect that the majority leader is likely to interpose soon. The result will be identical. In other words, it is simply a frustrating waste of the Senate's time when the Senate ought to be engaged in the business that is before us, and that is the energy and water appropriations bill.

I share one sentiment with the Democratic leader. I believe that the Senate should pass a bill relating to tobacco. I don't believe that it should be anything like the bill that was before us yesterday, by any stretch of the imagination. But if we are to pass legislation on the subject, it is going to require more understanding and more tolerance of one side to the other than evidenced in the course of the last 3 or 4 weeks. It clearly is not going to be accomplished by the kind of amendment that was placed before the Senate at this point.

Awaiting further instructions from the majority leader, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as in morning business for 2 minutes.

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

(The remarks of Mr. NICKLES pertaining to the introduction of S. 2187 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FAIRCLOTH. Mr. President, I rise in strong opposition to the McCain bill, and I urge my colleagues not to revive this job-busting and budget-busting bill in committee. Like the wicked witch, it is dead, and I am delighted

that its tortured life is over. I would like to reflect on this past month of debate on the tobacco bill, Mr. President, and I want to say a few words about this bill and its effects.

Mr. President, tobacco has a long and proud heritage in North Carolina. Since Colonial times, hard-working men and women have supported their families on tobacco, whether by coaxing tobacco from the ground or by processing it into the products used by consumers across the country.

On that note, Mr. President, I want to say a few words in defense of the people we have heard least about during this endless debate. I'm talking about the hard-working men and women of the tobacco manufacturing facilities. We hear all about Big Tobacco, Mr. President, but they're the folks who will suffer if this bill is not stopped. Many thousands of North Carolinians earn their livings in tobacco manufacturing and distribution. They work in the plants and in the warehouses, in the factories and on the loading docks, and on the interstates transporting the product.

These are good jobs, Mr. President, good jobs with good wages and good benefits. This bill puts those working people in its cross hairs. It is no secret to the people of my State that, in their declaration of war on tobacco, President Clinton and Vice President GORE assaulted the heart of our agricultural heritage. The anti-tobacco armies and the trial lawyers created the most serious threat to face the tobacco family in many years.

Just look at the line-up in Congress. Just look at the overwhelming support in the Democratic caucus for this bill. Democratic Senator DICK DURBIN wails that tobacco is the only government-supported crop "with a body count." Democratic Senator TED KENNEDY decries tobacco with characteristic bluster and charges the industry with "the insidious and shameful poisoning of generations of children." If we defeat this bill, Mr. President, it will be with the help of just a couple of Democrats. Where are the defenders of the working folks?

This is not about Big Tobacco, Mr. President, it's about hard-working men and women. The unions and I don't always agree, Mr. President, but I want to insert into the RECORD a statement from the North Carolina A.F.L.-C.I.O. They hit the nail on the head—this is about saving our jobs and saving our communities—and I stand with the working folks against the liberals, the trial lawyers, and the other special interests bent on destroying jobs.

Phillip Morris and R.J. Reynolds major employers in North Carolina. I'm proud of the working men and women at these factories. They're not the most popular folks on Capitol Hill these days, but that fact just speaks volumes about the confused values up in Washington, because we should honor their hard work not try to throw them out of their jobs. And they're not the only ones who will lose their jobs. These taxes will cripple countless businesses.

The McCain bill seeks to increase retail cigarette prices as much as $4.98 in real terms by 2004, tapering off to $3.80 by the year 2007. I am informed that this could lead to a reduction of nearly 50 percent in retail cigarette sales, along with large-scale increases in illegal smuggling activities, and that will cost American jobs.

By 2004, the year in which the payments under the McCain proposal peak, the loss in cigarette sales will lead to devastating economic consequences, and it will be the working men and women who will feel this pain. The economic models show that the price increases—and the effects of increased foreign smuggling—could lead to job losses approaching 1,152,974 workers nationally. That is a mind-boggling number, just think of 1,152,974 disrupted lives, all those hopes and dreams thrown into doubt and chaos. These are real people, supporting real families, working in diverse businesses. They are not just tobacco manufacturing workers, but also convenience store clerks, line workers in paper mills, long distance truckers, and graphic artists in advertising agencies.

For example, in North Carolina, it is estimated that the impact of this proposal will lead to a total loss of 48,691 direct jobs. The effect would be similar to a lay-off of this magnitude from a single employer, Mr. President, with the total impact on the community approaching 161,953 jobs. The implications of the McCain bill would be similar to laying off all of the 40,100 employees of both Burlington Industries in Greensboro and Family Dollar Stores of Charlotte.

However, most of these jobs are in communities that do not have any other industries of comparable size, so it is highly doubtful whether displaced workers would be able to find new jobs near home. Some supporters of the tobacco bill have questioned whether this matters. They claim that displaced workers can just move to where the jobs are. Well, that's not good enough. People have roots in their communities. Any farmer will tell you that you risk killing a plant when you pull out its roots and move it. People are no different.

And even if displaced workers can find new jobs without displacing their families and abandoning their communities, they are not likely to be able to match their current salaries and benefits. These are not wealthy people. These are working people. They simply cannot afford to lose a significant portion of their income.

We can reduce underage tobacco use. But we won't do it by punishing the innocent and honorable men and women who work in the tobacco industry. And we won't do it by destroying the economic engine that has supported their communities for generations. Mr. President, the men and women who work in the tobacco industry and the people who depend upon them deserve our respect and support. They have earned it. Please join with me in giving it to them.

I ask unanimous consent that the statement from the North Carolina AFL-CIO be printed in the RECORD.

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

NORTH CAROLINA UNIONS STAND UP FOR TOBACCO JOBS: URGE POLITICAL AND BUSINESS LEADERS TO SAVE STATE'S ECONOMY BY JOINING FIGHT FOR FAIR SETTLEMENT

RALEIGH.—"Save Our Jobs, Save Our Communities," was the rally call of the state AFL-CIO and its unions representing workers in the tobacco and related industries. They're gravely concerned with the negative impact on North Carolina jobs and the economy if current tobacco legislation pending in the U.S. Congress becomes law.

The unions want political and business leaders to stand up for workers in tobacco and related industry, who will lose their jobs if the right tobacco deal is not passed in Washington.

"I'm here today to speak up for the thousands of hard-working North Carolina men and women whose jobs are threatened by tobacco proposals coming out of Washington, D.C.," said James Andrews, president of the North Carolina AFL-CIO. "These workers have been forgotten by the elected officials who are more concerned about politics then stopping underage smoking and keeping good jobs in our communities."

"The nation needs an end to the tobacco wars," he added. "Like everyone in this country, we want to stop kids from smoking. The unions in the industry have consistently supported strong, effective controls on youth access to tobacco. However, we also want to make sure any proposal protects our jobs."

Pending legislation in the U.S. Senate would devastate many communities in the state, the union leaders charge. "The McCain bill now before the Senate would destroy jobs, bankrupt the industry and create a black market in which its impossible to protect our children," said T.J. Warren of the Bakery Confectionery and Tobacco Workers Union.

Last June when the State Attorneys General worked out a settlement with the tobacco industry, the unions had high hopes of ending the tobacco wars with legislation that helped national health goals but at the same time preserved jobs.

"I am tired of hearing about proposals that destroy jobs and increase taxes in the name of tobacco reform legislation," said Warren. "Many members of Congress want to punish the tobacco companies. But, multinational tobacco firms aren't going to be punished. They'll switch production to low-wage countries and thrive. No one gets punished except the U.S. grower and worker and the communities in which we live, work and spend our consumer dollars."

"If tobacco moves overseas our plant will close. It cannot be converted to produce other products. More than 90% of what Acusta Corporation makes in Brevard is sold to cigarette companies. We make cigarette

papers, foil, package and cellophane," said Jerry Stuart, president of Paperworkers local union 1971. "In the western part of North Carolina good jobs are scarce. If our plant closed it would be an economic disaster area. Not only would Paperworkers be out of work but many small businesses and even small towns would close up."

"Our members do not want their children to smoke, but they don't want to lose their jobs. These drivers who have established a middle class way of life would be forced into the working poor," said Chip Roth of the Teamsters Union. "The Attorneys General came to a reasonable settlement that will crack down on teen age smoking while allowing the industry to continue."

"I'm convinced a nation as resourceful as ours can devise national legislation that ends the tobacco wars and fulfills our national public health goals without destroying quality U.S. jobs and devastating the communities in which we live and work," said Andrews. "I refuse to believe that a nation built on freedom and fairness through compromise cannot give the nation what it needs—an end to the tobacco wars and a clear, predictable future for our jobs and families."

The unions would support a legislative solution that:

Gives Americans a clear, predictable future where kids don't smoke, public health goals are met and smokers and non-smokers alike have their rights respected.

Maintains the U.S. manufacture and export of a product that both domestic and foreign consumers want, thereby preserving U.S. jobs and communities.

Avoids unfair and regressive taxes that single our some individuals to bear the burden while making possible an immensely profitable black market in which we cannot control cigarette sales.

Ends the uncertainty of unpredictable litigation and relentless regulatory battles and brings stability to the industry and its jobs.

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

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

Mr. DOMENICI. Mr. President, I raise a point of order that the pending Daschle amendment violates section 302(f) of the Budget Act and that it would cause the Energy and Water Subcommittee to exceed its 302(b) allocation.

Mr. REID addressed the Chair.

MOTION TO WAIVE THE BUDGET ACT

Mr. REID. Mr. President, I move to waive the Budget Act to permit consideration of the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, for the information of all Members, they should understand that this amendment on the part of the Democratic leader does not take us back to where we were yesterday. This is a bill that might best be called Commerce 2. It does not include any of the drug provisions; it does not include a repeal of the marriage penalty; it does not even include the Gregg amendments or the Durbin amendments. It does not include the amendment that was one of mine that was passed to limit attorneys' fees. In effect, this doesn't take us back to yesterday afternoon, it takes us back to 4 weeks ago. I hope that Members will overwhelmingly deny this.

Mr. DOMENICI. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered on the motion to waive.

QUORUM CALL

Mr. REID. Mr. President, a number of people on this side want to speak on this matter now before the Senate. Therefore, 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. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DORGAN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

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

Mr. DORGAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 2]

Craig	Gorton	Smith (NH)
Domenici	Lott	
Dorgan	Reid	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll.

Mr. LOTT. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

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

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

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—96

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

NAYS—2

Bond	Breaux

NOT VOTING—2

Faircloth	Specter

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I yield to Senator MCCAIN for 2 minutes.

Mr. MCCAIN. Mr. President, I intend to vote with the majority leader because I believe that it is not going to serve any useful purpose for us to continue in this parliamentary dilemma. I am hoping that negotiations and discussions are beginning, that perhaps we can reach some agreement and move this issue forward in the future. But right now I think we need to move forward with legislation.

Mr. LOTT. Mr. President, I now move to table the pending motion to waive, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

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

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—54

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

NAYS—44

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

NOT VOTING—2

Faircloth	Specter

The motion to table the motion to waive the Congressional Budget Act with respect to amendment No. 2138 was agreed to.

The PRESIDING OFFICER. The point of order is sustained and the amendment falls.

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

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

The motion to lay on the table was agreed to.

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

Mr. KENNEDY. Will the Senator withhold that for 2 minutes so I can make a comment?

Mr. THOMAS. Mr. President, I will withhold for some debate, but not for the offering of an amendment.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have just seen an opportunity for the Senate to address the issue of public health for the children of this country once again, with the introduction of the legislation by Senator DASCHLE.

This is going to be the first of many attempts to try to ensure that the Senate is going to take action to try to protect the young people of this country. That is what this issue is all about. What we have just seen as a result of the vote is that the Republican Party is stonewalling action here in the U.S. Senate and, evidently, still kowtowing to the power of big tobacco and their campaign contributions.

We are not going to be silent on this issue, and we are going to continue to raise it. We believe that it is the most important public health issue, certainly for the children of this Nation, and it is an issue that is not going to go away.

So maybe today there is one more opportunity, by a narrow margin, to defeat those forces and for a reasonable and responsible approach on this issue. This issue is not going to go away. Our Republican friends had better get used to addressing it because they are going to have the opportunity to do it many more times until we get responsible action here, where the Senate is responding to the people's needs, the families' needs, not the interest of big tobacco.

This amendment by Senator DASCHLE would have given the Senate a second chance—an opportunity to reconsider its ill advised action of last night. A minority of Republicans used a transparent parliamentary ploy to frustrate the will of a majority of the Senate. The two votes last night proved that a bipartisan majority of the Senate supports tough antismoking legislation. It also proved that an obstructionist group of Republicans will stop at nothing to prevent fair consideration of the McCain bill. Those Republicans put the interest of the tobacco industry above the health of America's children. For the last four weeks, they have parroted the messages being broadcast in cigarette company advertisements. Last night, they gave their votes as well as their voices to Big Tobacco.

This issue will not go away. It will haunt the Republicans until they allow the bipartisan majority which exists to pass strong antismoking legislation to do so. Just as the Democratic leader brought the issue back to the floor today, we will bring it back again and again. This willful band of Republican obstructionists may have killed a bill last night and blocked consideration of the Daschle amendment today, but they cannot kill an idea whose time has come. Make no mistake, the time has come to protect our children from the evil influence of the tobacco industry.

The time has come to stop 3,000 children a day from beginning to smoke.

The time has come to save those children from a lifetime of addiction and premature death caused by smoking-induced illness.

The time has come to raise the price of cigarettes so they will not be easily affordable to children.

The time has come to stop the tobacco industry's targeting of children with billions of dollars of seductive and misleading advertising.

The time has come to protect millions of nonsmokers from the health hazards of secondhand smoke.

The time has come to prevent the 400,000 deaths caused each year by tobacco use.

No power on Earth—not even the Republican leadership of the Senate—can stop an idea whose time has come. The time has come for the Senate to reject the perverse influence of Big Tobacco, and to do what is right for America's children.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, first I just have to say to the Senator from Massachusetts that I am always sort of offended with the idea that if someone doesn't agree with him, they are suddenly a captive of special interests. I think that is very unfair. There are people who have different views, legitimate views, and I think they should be free to express those.

Mr. President, I ask unanimous consent that the Senate proceed to debate only until 12 noon.

Mr. KERRY. Reserving the right to object, and I will not object, I wanted to ask for a few minutes before we enter into that debate.

I am not submitting an amendment. I just wanted to have the right to make a comment for 2 minutes.

Mr. THOMAS. I absolutely have no objection to that. We are simply asking that the Senate proceed to debate until 12 o'clock.

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

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I want to join my colleague, Senator KENNEDY, in expressing what just happened here in the Senate. We just lost an opportunity to, in effect, begin with a clean bill. The complaint yesterday was that the bill had been too loaded down. The complaint yesterday was that the process had gotten away from us. In effect, what Senator DASCHLE did was put us back in the place where we began, to a committee piece of legislation that came to the floor by a vote of 19 to 1. And it was a piece of legislation, before the Lugar amendment was put in, before the liability amendment of Senator GREGG had passed, before the marriage penalty, before the Coverdell drug plan, before all of those things that were accused of loading it up. So, in effect, we had an opportunity to really start from scratch learning the lessons that the Senate had learned over the course of the last 3 weeks. But once again that was rejected.

As the Senator from Massachusetts said, this will be revisited. This issue is not one that will go away. As I said previously, you can run but there is no

way to hide with respect to the responsibility that is expected for our children in the efforts to reduce teenage smoking. That will be revisited.

I yield the floor.

Mr. FAIRCLOTH. Mr. President, the McCain bill is dead, and I say good riddance. It was nothing more than a massive tax increase on working Americans to fund an expansion of the Federal government. However, I suspect that we will revisit the tobacco issue, and I want to ensure that my colleagues remain aware of a critical issue to the people of my State. I'm talking about thousands of tobacco farm families. These are people who depend on tobacco farming for their livelihood and who share a long and proud heritage.

Mr. President, my farmers are hurting, and we're losing more and more of them every year. The tobacco quota continues to drop, but not their credit payments, so they're getting squeezed to the limits. Some of them are well past their limits and were forced off their farms.

I believe that we will face the tobacco issue again next year. Certainly, whether or not we do a small and far less expensive youth access bill without a tax increase at the end of this year, we will return to the so-called tobacco settlement next year. If we return to this bill next year—not in a politically charged atmosphere just five months from Election Day—it will be far easier to manage this process and to come up with a reasonable bill that addresses the needs of all parties. That means farmers, and that is a critical point, because they are the folks on the front line and under fire in this war on tobacco.

We need to address this issue in a calm and reasonable atmosphere, not this hysteria, and I look forward to that debate. The men and women of the tobacco family need some certainty. If the Democrats want to continue their war against tobacco—and I want to point out that just two Democrats voted to kill the McCain bill—I say "protect the farmers" because they are the innocent victims of this unfair assault. This is indeed an unparalleled assault on their crop.

The farmers need help—and a settlement bill must include this help—in order to restructure their debt to a manageable level. A long-term payment scheme will not service their debt because tobacco production will continue to drop. These farmers fear that the creditors will call the loans and the fire sales that follow will depress land and equipment prices. They can't sustain this assault by their own government.

I want to be sure that the next generation of farmers have opportunities to grow tobacco, and I will fight to make sure that they have those tools, because they are the future of our nation. They grow our food. In Sampson County, North Carolina, where I live, you see the slogan "Support agriculture or try used food," and that sums it up. We cannot let our farmers suffer. We will not let our farmers suffer.

I look forward to this debate—I hope it will be a reasonable one rather than a tax-and-spend bonanza—and I look forward to the effort to prepare our farmers for the future.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I intend to offer an amendment at an appropriate time, probably around noon. What I want to talk about is national policy with respect to renewable energy.

I started on this issue back when I first came to Congress, which was in 1975, when this Nation woke up and realized that we were very vulnerable to the supply of oil. At that time, you may remember, we had lines of cars waiting for gasoline. We had terrible shortages. We realized that this Nation, in order to make sure that it had a future, had to do something about it. Working with my friends in the House, at that time we established a wind energy program, which is still going strong. We also increased the funding in research into solar energy and the advantages that it gives to our society to recognize that the Sun is a tremendous source of energy and that it can be harnessed. We also looked at biomass options as well.

Subsequent to that, when I came to the Senate, I also worked with the committee that handles it on the authorizing side. We developed a national policy. I had hoped that national policy would have mandated the course of action necessary to get this Nation to have 30 percent of its energy supplied by renewable sources. However, every word of my amendment was adopted except one, and that one was, instead of "shall," it said "may." That kind of switched things around as far as its importance. But the importance to continue to move forward to shift our dependence on foreign oil is something that has not gone away.

At that time, we established a chart of where we ought to be. Right now, under that chart of going towards 30 percent of our energy to come from renewable, it is at 10 percent. That is where we are supposed to be on course. We are not. We are at 8 percent.

What has happened now in this bill is that we have seen that renewables are cut and whereas, although things are perhaps more popular, or whatever items are increased, renewables are cut. Last year we got an additional $20 million approved, but when it got to conference, it disappeared. We are not making the kind of progress that this Nation needs in order to be able to become less dependent and, hopefully, someday independent of foreign sources.

If we look at the world situation now, we should understand that the largest amount of oil right now to take out of the ground, so to speak, is not available. The Crimean, which is one of the most volatile areas in the world, has the most oil that has to be looked to for the future. I think it is about 70 percent of what is available at the world level. The second area is the Persian Gulf. Obviously, neither of those is very close to us. So our dependency is increasing.

If you want to take a volatile area, you ought to take Crimea, right in the middle of one of the most volatile situations right now, including the areas of Pakistan all the way up through to Russia at the other end. And you have Iran and Iraq in the area. Those are areas that the pipelines would have to go through. Incredibly, also with expanding availability of nuclear weapons, these are very fragile areas. To think that we would have to rely upon them is very difficult. The same is true also, of course, with the Persian Gulf. Everyone is familiar with the problems we had in the Persian Gulf and the nonreliability at certain times of the availability of that oil.

The question is, What should we do? We decided years ago that we could get to 30 percent, really, with utilization and to a large extent of biomass, as well as wind and solar energy, and that we could do it with little or no increase in the cost of availability of the fuel, but it could give us the kind of utility we need. As I pointed out, we have not made any progress in recent years. In fact, we are sliding back from where we ought to be.

So the amendment that Senator ROTH and I will offer today is about priorities. I think we all agree that increased domestic energy production should be a priority. We would agree that a lower balance of payments should be a priority. We would stand up to U.S. companies selling U.S. manufactured energy technologies in overseas markets. We would cheer the increased jobs, which would mean for every State in the Nation. We would support the small companies across this Nation working to capture the booming global energy market. We would make it a priority to increase domestic energy production and promote clean air. But that is not what has happened here. The bill before us further whittles away at our Nation's efforts to wean itself from foreign oil.

The priorities in the bill for our Nation's energy policy go back years. This legislation will erode our efforts to develop technologies that increase domestic energy production. This bill ends commitments made to small energy companies that depend on Federal

assistance to enter the giant global energy market. The funding levels contained here reduce our Nation's efforts to make major advancements in energy development, energy that is affordable, that is a clean, and, most importantly, made in America.

Today, Senator ROTH and I offer an amendment to increase our Nation's investment in clean domestic production. The amendment would restore funding to the Department of Energy's renewable research and development budget.

Mr. President, the fiscal year 1999 energy and water appropriations bill cuts funding for solar, cuts funding for wind, cuts funding for biomass, cuts funding for hydrogen, cuts funding for geothermal, and cuts funding for hydropower research and development by $120 million, or 33 percent below the administration's request, and $20 million from the fiscal year 1998 level. This $380 million account takes a $120 million cut. The amendment we offer today simply attempts to add back half this level, or $70 million, to the renewables budget.

A vote for this amendment is a vote to reduce our country's dependence on foreign oil from rogue nations like Iraq. A vote for this amendment is a vote to support small businesses all across the United States that produce clean renewable energy products. A vote for this amendment is a vote to help the same small businesses grab onto a chunk of that rapidly growing export market for renewable products. A vote for this amendment is a vote for cleaner air for our children.

Mr. President, I am going to address each of these reasons of why my colleagues should support this bill in turn.

Nearly half of all of our Nation's oil is imported today. These imports account for almost $60 billion, or 36 percent; 36 percent of the trade deficit is in this one area. These are U.S. dollars being shipped overseas to the Middle East which could be put to better use here at home.

Consider the following chart, chart No. 1. This chart shows that the U.S. Energy Information Administration predicts that we will import even more of our oil, two-thirds of all oil we consume, by the year 2020. That means we will continue to be held hostage by oil-producing nations, including rogue nations like Iraq.

This chart, as you can see way out here, shows we are just going to have increased prices in oil and all sorts of difficulty as we get out to 2020. U.S. petroleum imports are expected to reach two-thirds of consumption in the year 2020.

Our second chart, Mr. President, shows that we are not alone in our increasing dependence on foreign sources of oil. The Energy Information Administration also predicts that by the year 2020 the Persian Gulf will supply one-half of the world's oil exports—one-half. Why would we continue to increase our addiction to that very volatile area of the world?

We can reduce our dependence on Persian oil by continuing our investment in a clean domestic energy. I believe that these charts demonstrate very clearly that action must be taken. The goals that we set a few years ago to say that we should be at 30 percent of renewables must be adhered to.

Chart No. 3 shows that the United States currently obtains 8 percent of our energy from renewable sources. That is OK, but we can do better. We should do better. We must do better. In fact, in 1991, during consideration of the Policy Act, the Congress agreed to an amendment to boost our percentage of renewable power to 20 percent by the year 2000 and 30 percent by the year 2010. How will we ever get there if we keep cutting our commitment to the small businesses across the Nation that are moving forward with these technologies?

Chart No. 3, as you can see, indicates what we had in 1996. We had petroleum, 38.1 percent; nuclear, 7.6; renewables, 7.9; coal, 22.4; natural gas, 24 percent.

This percentage—7.9—if we were on target, if we were doing what we agreed to do when the act was passed, would now be 10 percent. It is not approaching the goal that we have agreed upon as a national priority.

Chart No. 4 shows that renewable energy is produced in every State in the United States. I think all Senators ought to take that into consideration. What you are doing is hurting the small businesses located in every State in the United States. Every Senator in the United States is a stakeholder in the debate we are having on the floor today.

Let us take a look now at the next chart that we have. I think pictures make points better than words. I want to share with you pictures of a variety of renewable energy projects across the country.

This is chart No. 5. It shows the Kotzebue Electric Association village power project. It is in Alaska. It is a wind project coming about from the bill that was put into effect at the end of the 1970's.

This project will reduce emissions from diesel power and will reduce fuel transport costs to villagers. It is in existence. It is one that is easily replicated. It should be available, but we need to have more assistance, and we cannot cut back on that assistance which has been so productive in getting us the improvements we have had.

Chart No. 6, this shows you the geographic distribution throughout our Nation. It shows that in the State of Oklahoma we have taxpayer dollars employing a geothermal heat pump in the State capitol building. This is geothermal, which obviously is another available energy supply, but we still need to have the research and the ability to replicate and duplicate and to find out better ways to be able to tap and utilize geothermal.

Chart No. 7 gets to another—this one is where we have the most availability in this Nation and where we can proceed without in any way hampering the present energy sources. We have the ability in this Nation with all its agricultural resources to produce biomass energy which would allow us to go forward to get to the targeted goals. But that is cut back.

This is the Bioten Biomass Plant, Red Boiling Springs, TN. This project produces energy from sawdust and will test other biomass fuels including wood residues and agricultural wastes.

The next one we have is chart No. 8, which is the Stirling Dish Concentration Engine at Sandia National Laboratory in Albuquerque, NM—a great State, New Mexico. This system, created through a public/private partnership, uses heat generated by the Sun's rays to produce utility grade electric power.

The next is a solar-powered school speed limit sign. This is an interesting use of solar energy—reducing dependence on electric power and ensuring that it works anytime the Sun is up, whether there are clouds or not.

Chart No. 10 is entitled "Waterfront Office Buildings." Mr. President, not only do these projects currently help, but they will not be moving forward as fast as they could if we don't at least put some of the money back that is used to fund it. Waterfront office buildings, these are located in Louisville, KY. These buildings are heated and cooled by geothermal heat pumps, saving the hotel $25,000 per month in utility costs.

Mr. President, these are the types of things we are looking at.

I see my good friend and cosponsor is here. If he would like to take some time, I am happy to yield the floor to him.

Mr. ROTH. I thank the Senator. I appreciate his offer as I am in a conference on IRS and it is important that I get back there as promptly as possible.

I appreciate the opportunity to speak briefly on this most important amendment.

Mr. President, as you know, Senator JEFFORDS and I are offering an amendment today that will restore funding for renewable energy programs in the fiscal year 1999 energy and water appropriation's bill. The renewable energy program has been cut by 33 percent below the administration request and $27 million below fiscal year 1998 levels. This amendment would add $70 million back to the renewable budget restoring all programs to fiscal year 1998 levels and boosting some programs 10–20 percent more. Even with these increases, America's investment in wind,

solar, biomass, and other clean energy technologies will be well below the funding levels of 3 years ago.

Mr. President, renewable energy technologies represent our best hopes for reducing air pollution, creating jobs and decreasing our reliance on imported oil and finite supplies of fossil fuels. Whatever one's position on the issue of climate change—these programs promise to supply economically competitive and commercially viable exports. I believe that the Nation should be looking toward alternative forms of energy, not taking a step backward by cutting funding for these important programs.

My own State of Delaware has a long tradition in solar energy. In 1972, the University of Delaware established one of the first photovoltaic laboratories in the Nation. The university has been instrumental in developing photovoltaic cells, the same type of technology that powers solar watches and calculators.

Delaware has a major solar energy manufacturer, Astro Power, which is now the fastest growing manufacturer of photovoltaic cells in the world. In collaboration with the University of Delaware and Astro Power, Delaware's major utility—Delmarva Power & Light—has installed an innovative solar energy system that has successfully demonstrated the use of solar power to satisfy peak electrical demand. Through this collaboration, my State has demonstrated that solar energy technology can be an economically competitive and commercially viable energy alternative for the utility industry.

It is vital that we continue to manufacture these solar cell products with the high performance, high quality, and low costs required to successfully compete worldwide.

Investment in Department of Energy solar and renewable energy programs has put us on the threshold of explosive growth. Continuation of the present renewable energy programs is required to achieve the goal of a healthy photovoltaic industry in the United States.

While the solar energy industries might have evolved in some form on their own Federal investment has accelerated the transition from the laboratory bench to commercial markets in a way that has already accrued valuable economic benefits to the Nation. Solar energy companies—like Astro Power—have already created thousands of jobs and helped to reduce our trade deficit through exports of solar energy systems overseas, mostly to developing nations, where 2 billion people are still without access to electricity.

International markets for solar energy systems are virtually exploding, due to several key market trends. Most notably, solar energy is already one of the lowest cost options available to developing countries that cannot afford to build large, expensive centralized power generation facilities with elaborate distribution systems.

The Governments of Japan, Germany, and Australia are investing heavily in aggressive technology and market development in partnership with their own solar energy industries. Until recently, Japan and Germany held the lead in world market share for photovoltaics; the United States has only recently recaptured international market dominance.

Cutting funding for commercializing these technologies would have a chilling effect on the U.S. industry's ability to compete on an international scale in these billion-dollar markets of today and tomorrow. The employment potential of renewables represents a minimum of 15,000 new jobs this decade with nearly 120,000 the next decade.

Mr. President, I might also add biomass is another form of renewable energy with great potential. While traditionally biomass includes the use of wood chips and trash to create electricity, Maryland and Delaware are exploring the opportunities to use poultry manure as a biomass fuel. Manure used in this manner would not be spread on fields, a practice implicated by some as a cause of the recent outbreaks of pfiesteria.

The electricity generated by the plant could then be sold to electric companies, the ash from the burning manure could be marketed as an environmentally sensitive fertilizer. In England the poultry litter fueled electric plants produce over 38.5 megawatts of power and burn 440,000 tons of chicken manure a year.

The Jeffords/Roth amendment will restore the renewable energy accounts so that poultry manure fired plants and other renewable opportunities may become a real possibility in the future.

It is imperative that this Senate support renewable energy technologies and be a partner to an energy future that addresses our economic needs in an environmentally acceptable manner. My State has done and will continue to do its part. I hope my colleagues in the Senate will look to the future and do their part in securing a safe and reliable energy future by supporting this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from Delaware for his very eloquent statement and for his dedication to trying to get this Nation on the course it needs to be, to get off its dependency on oil. It has been a pleasure working with him over the years, and I look forward to continuing to do so.

I also would like to add two other Senators as cosponsors of this amendment: Senator MOYNIHAN of New York, and also Senator ALLARD from Colorado.

Mr. President, when I turned over the discussion to Senator ROTH, we were in the middle of going through charts which demonstrate right now the tremendous effort that is going on, and what needs assistance to make it even better, because we are sliding behind the results at this point of where we ought to be from these charts.

The last one I showed, to start over again, is the Waterfront Office Building in Louisville, KY, where they are using geothermal—which, incidentally, can use heat to cool, which is sometimes a little confusing. But the way it uses its geothermal, it saves this hotel $25,000 a month.

Now, let us take a look at some of these other charts so everyone here has a better opportunity to understand the depth of interest and the depth of participation in this Nation by private enterprises which are trying to reduce the Nation's dependence upon oil. That enthusiasm is out there, but it needs to be assisted. It needs to be demonstrated that we can even do better than we are doing, and we are nowheres doing as much as we used to be.

The next chart, chart 11, indicates several States have greater wind potential than California, where the vast majority of wind development has occurred to date. The top 20 States for wind energy potential include North Dakota, Texas, Kansas, South Dakota, Montana, Nebraska, Wyoming, Oklahoma, Minnesota, Iowa, Colorado, New Mexico, Idaho, Michigan, New York, Illinois, California, Wisconsin, Maine and Missouri. That just gives you an idea. We should add Vermont to that. Recently, we have opened our own wind production in the southern part of the State. But this shows the States right now, the top 20 States, as measured by their energy projections for wind. Obviously, wind is pretty free and there is a lot of it in this country. In fact, there is a lot of it right here in this Chamber, but we do need to better utilize it for a more effective presentation of our efforts to be able to save energy.

Now, let's look at the next chart we have, chart 12. Consider the two quotes on this chart. The first quote reads:

> In 1995, worldwide wind-power generation capacity was 4,900 megawatts. . . .

That is 1 million watts. That was China alone.

The second quote reads:

> In the past 10 years, PV sales worldwide have more than quadrupled . . . In developing countries, demand has risen significantly, fueled by the recognition that PV systems are an attractive option to rural electrification in isolated, inaccessible communities that are distant from the power—

Sources. Those are photovoltaics. PV is photovoltaics, taking the Sun and converting it, through utilization usually of silicon, to electricity. It is a wonderful source. It is free. It comes from the Sun, and it is increasing worldwide.

As it says here:

In the past years, PV sales worldwide have more than quadrupled . . . In developing countries, demand has risen significantly, fueled by the recognition that photovoltaic systems are an attractive option for rural electrification in isolated, inaccessible communities that are distant from the power grid and have small electric requirements.

This is a tremendous source for exporting our technology and our systems around the world. In fact, when I was in the House, I did get an amendment attached which made demonstration projects at our embassies throughout the world to demonstrate how usable the Sun is to produce power and how effective it is.

In the past 10 years alone, photovoltaic sales worldwide have more than doubled. That is chart No. 12. American renewable businesses are taking advantage of these markets.

Consider this chart, chart No. 13. This chart shows a wind turbine produced by a small wind turbine manufacturer in my State. This turbine was built in Vermont and exported to Ontario, Canada. There is a large market for export of U.S. wind turbines to northern communities in Alaska, Canada and Russia. This is a picture of one. We have several of these in Vermont now. They are throughout the world, and they are not at all offensive. They are quiet. They make a lot of energy. This is a large market for companies in this country.

Although America is still a leader in developing renewable energy technologies, this lead may slip if we lower our renewable research and development funding. Europe and Japan continue to subsidize their renewable industry, putting U.S.-based companies at severe disadvantage.

For example, Japan, Germany and Denmark use tied aid, offer financing and provide export promotion for their domestic industries, and our industries have to compete with that. It is very difficult to do, but because of the success and the fact that we have advantages, they have been able to survive with great difficulty without having that assistance or loans. This is not the time to lose our lead or to cut funding out to this important industry.

Mr. President, there is one final reason why my colleagues should overwhelmingly support this amendment. This amendment is a vote for the environment. Renewable energy is largely free of the pollutants regulated by the Clean Air Act.

Chart No. 14 demonstrates this. Consider this geothermal power plant in Dixie Valley, NV. This plant, which produces electricity for 100,000 people produces no NO_X emissions and 5 percent as much SO_X and CO_2 as a coal-fired power plant of the same size. Five percent, that is 95 percent reduction in the production of those pollutants. We need more of these plants, like the one in Dixie Valley, NV.

Renewable energy can have other environmental benefits as well. Consider the following projects, all of which turn waste products into energy.

Chart No. 15: Westinghouse Power Connection. This one is a biomass gasification test facility in Paia, Island of Maui, HI. A pilot project demonstrates potential to convert agricultural waste—sugar cane—into electricity. Again, back to biomass which has incredible use available to us.

The next chart shows Wheelabrator Shasta Energy Co., a biomass project in Shasta County, CA. This project converts wood wastes that would otherwise end up in landfills into 49 megawatts of electric power.

The next chart—if I am right, we should have 50, one for every State. We will see how we turn out here. This is the BC International Corporation biomass ethanol plant in Jennings, LA. This plant will be retrofitted to produce ethanol from sugar cane, bagasse and rice waste.

The next chart will also demonstrate the number of plants we have spread throughout the country. This is in Connecticut; a fuel cell power plant, Groton, CT. The fuel cell plant uses hydrogen from landfill gas that otherwise would be wasted to create electricity. It is another indication of the tremendous breadth of expertise we have in this Nation to produce. All we have to do is make sure we don't cut back in their planning and ability to create many of the experimental plants.

Let me now conclude by, again, reminding everyone, we are proposing to add $70 million in our amendment to the Department of Energy's solar, wind and renewable budget. Federal support for renewable energy research and development has been a major success story in the United States. Costs have declined, reliability has improved, and a growing domestic industry has been born. More work still needs to be done in basic research at our national labs and applied development to bring down the costs of production even further. This is a tremendous opportunity for this Nation to develop industries which will help us reduce our trade deficits.

This is not a vote which pits Senators from one region of the country against Senators from another region. I think I have shown that all regions of the country benefit from renewable energy. This is not a vote which pits probusiness Senators against proenvironmental Senators. I think I have shown that renewable energy is a clean, environmentally beneficial industry. This is not a vote which pits Democrats against Republicans.

Chart No. 19: Consider this quote from former President Bush in September 1991. President Bush stated:

We must encourage environmentally responsible development of all U.S. energy resources, including renewable energy. Renewable energy does reduce demand upon our other finite natural resources. It enhances our energy security, and clearly, it protects the environment.

So just before I offer the amendment, I would like to thank my colleagues who are cosponsoring it with me and urge—urge—my colleagues to sincerely consider the tremendous advantages which this amendment will have and to remind you, at present, we are cutting back—while going forward on other less necessary projects—we are cutting back on that which is most critical to the future of this Nation in its ability to gain the semblance of energy independence. We are slipping behind the chart and the goals that we have established. We cannot cut back in the funding that will help us get there.

I ask unanimous consent to have printed in the RECORD a table which sets forth the provisions in the amendment.

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

	Fiscal year 1998	Fiscal year 1999 President	Fiscal year 1999 Committee mark	Mark to 1999 (percent)	Mark to President (percent)	To get to fiscal year 1998	Plus specific adds	Plus 50 percent of what President asked for	Total adds
Solar energy:									
Solar building technology research	2,720	5,000	3,600	+32	−28			260	260
PV energy systems	66,511	78,800	57,100	−14	−27	9,411		6,445	15,856
Solar thermal energy systems	16,775	22,500	17,100	+2	−24		2,000	2,517.5	4,517.50
Biomass—Biopower	28,600	42,900	22,800	−20	−47	5,800		7,150	12,950
Biomass—Biofuels	31,150	46,891	36,213	+16	−44		2,000	2,870.5	4,870.50
Wind energy systems	33,030	43,500	33,200		−24			5,065	5,065
REPI	3,000	4,000	3,000		−25			1000	1,000
Solar program support	0	14,000	4,000	n/a	−71			3,000	3,000
International solar energy program	1,375	8,800	3,400	+247	−61			1,687.5	1,687.5
Solar technology transfer	0	1,360	0		−100			680	680
NREL	1,000	5,000	1,000		−80			4,000	4,000
Construction: 96 E–	2,200	0	0	−100					
Total, solar	186,361	272,751	181,423	−1	−29				
Geothermal	29,500	33,000	18,000	−39	−45	11,500		1,750	13,250
Hydrogen research	16,250	24,000	29,000	+79	+21				
Hydropower	750	4,000	4,000	+533					

	Fiscal year 1998	Fiscal year 1999 President	Fiscal year 1999 Committee mark	Mark to 1999 (percent)	Mark to President (percent)	To get to fiscal year 1998	Plus specific adds	Plus 50 percent of what President asked for	Total adds
Renewable Indian energy resources	4,000	0	4,000		n/a				
Electric energy systems and storage	44,450	38,500	42,500	−4	+11				
Federal building/Remote power initiative	5,000	0	3,000	−40	n/a	2,000			2,000
Program direction	15,651	17,000	15,651		−8			674.5	674.50
Subtotal	301,652	389,251	297,574	−1	−24				
Use of prior year balances			0						
Total	301,962	389,251	297,574	−1	−24	28,711	4,000	37,100	69,811

AMENDMENT NO. 2715

(Purpose: To increase funding for energy supply, research, and development activities relating to renewable energy sources, with an offset)

Mr. JEFFORDS. Mr. President, is my amendment at the desk?

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself, Mr. HARKIN, Mr. MOYNIHAN and Mr. ALLARD, proposes an amendment numbered 2715.

Mr. JEFFORDS. 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 21, lines 2 and 3, strike "$699,836,000, to remain available until October 1, 2000, of which" and insert "$758,854,000, to remain available until October 1, 2000, of which not less than $3,860,000 shall be available for solar building technology research, not less than $72,966,000 shall be available for photovoltaic energy systems, not less than $21,617,500 shall be available for solar thermal energy systems (of which not less than $3,000,000 shall be available for the dish/engine field verification initiative), not less than $35,750,000 shall be available for power systems in biomass/biofuels energy systems, not less than $41,083,500 shall be available for transportation in biomass/biofuels energy systems (of which not less than $3,000,000 shall be available to fund the Consortium for Plant Biotechnology Research), not less than $38,265,000 shall be available for wind energy systems, not less than $4,000,000 shall be available for the renewable energy production incentive program, not less than $7,000,000 shall be available for solar program support, not less than $5,087,500 shall be available for the international solar energy program, not less than $680,000 shall be available for solar technology transfer, not less than $5,000,000 shall be available for the National Renewable Energy Laboratory, not less than $31,250,000 shall be available for geothermal technology development, not less than $5,000,000 shall be available for the Federal building/Remote power initiative, not less than $16,325,500 shall be available for program direction,".

On page 36, between lines 13 and 14, insert the following:

SEC. 3. OFFSETTING REDUCTIONS.

Each amount made available under the headings "NON-DEFENSE ENVIRONMENTAL MANAGEMENT", "URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND", "SCIENCE", AND "DEPARTMENTAL ADMINISTRATION" under the heading "ENERGY PROGRAMS" and "CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)" under the heading "POWER MARKETING ADMINISTRATIONS" is reduced by 1.586516988447 percent.

Prior year balances may not be reduced if they are obligated under an existing written agreement or contract to laboratories, universities or industry.

Appropriate use of funds to support meetings and technical conferences are allowed consistent with DOE's mission.

Funding increases for this amendment are for cost-shared RD&D, deployment, and technology transfer via technical and trade associations and allied non-governmental organizations.

Mr. KENNEDY. Mr. President, I strongly support the Jeffords/Roth Amendment to the Energy and Water Development Appropriations Act, which will substantially increase funding for renewable energy programs.

The Jeffords/Roth amendment is critical to an industry that will be at the forefront of energy production in the next century. Renewable energy will bring major economic benefits and major environmental benefits to the nation. This amendment provides us with the opportunity to become leaders in this booming global market.

At the same time, increased renewable energy technology will decrease our dependence on foreign oil and reduce the trade deficit. We will have greater protection from harmful oil price shocks. Funding for renewable energy now will clearly strengthen our competitiveness in the worldwide energy market for the 21st century.

Equally important, the Jeffords/Roth amendment reaffirms the nation's commitment to the environment. Renewable energy enables us to reduce the emissions from other energy sources that are polluting our air and water. It helps to curb the largest current source of pollution in the United States—energy production and energy use. Bringing innovative research from the laboratory to the market will also ensure the protection of our limited natural resources for a sustainable future.

Currently, millions of Americans already obtain electricity from renewable energy sources. These advances are just a hint of the possibilities of cleaner, safer energy production in the years ahead. This amendment allows the U.S. to maintain its leading role in global clean energy technology. I support this amendment, and I commend Senators JEFFORDS and ROTH for their leadership in protecting our environment and our economy.

Mr. LEAHY. Mr. President, I have the pleasure of joining Senator JEFFORDS to rise in support of the renewable energy programs within the Energy and Water Appropriations bill. First, I would like to thank Senator DOMENICI for accepting the Jeffords/Roth amendment to increase funding for these vital programs. With the dramatic changes taking place in the energy sector, our nation is faced with many opportunities to increase our consumption of renewable energy sources. There are two trends in the energy sector converging to make this change possible—utility restructuring and decreasing costs for renewable energy.

In my home State of Vermont, renewable technology companies are building wind turbines that are used in Europe, the Far East and South America. Unfortunately, the United States is behind much of the world in adopting wind and other renewable energy technology. Much more work needs to be done to spur the utilization of renewable energy. Although the cost of renewable energy has decreased significantly over the last decade, it still must compete against the artificially low cost of fossil energy. As we see the level of mercury and other heavy metals increase in our lakes while the views of our mountains are obscured by air pollutants—the need to find alternative sources of energy becomes all the more vivid.

Recent articles have highlighted the public's interest in maintaining renewable power as an option for meeting their energy needs. The last two decades have witnessed a decline in the cost of renewable energy. Research by the Energy Department and the commitment of private energy companies has produced this decline. As a nation, we must build upon this partnership and encourage the private sector to continue to develop cost-reducing technology. Unfortunately, the recent trend in federal research funding has not supported this partnership.

Wind Energy Research and development program has been extraordinarily successful in bringing down the cost of wind-generated electricity. To allow expansion of this large resource base, and to allow wind energy to be competitive in an era of utility restructuring that emphasizes low initial cost and independent power projects, significant improvements to the technology are still needed to reach the Program's goal of 2.5 cents per kilowatt by 2000. In addition, research and

analysis relating to restructuring in the electric utility industry should be conducted on issues associated with integration of wind and other renewable energy systems into an increasingly competitive industry framework.

Vermont is also leading the country in the deployment of biomass technology—both large and small. We are proud that the Department of Energy selected the McNeil Plant in Burlington to conduct a full scale demonstration of biomass gasification. In February, the project made history when the plant produced gas for fuel from wood chips. The effort at McNeil to demonstrate how our country can produce energy from renewable crops makes sense to Vermonters who have already embraced biomass as a renewable source of energy. Twenty State office buildings and eighteen schools use biomass for heat during the winter.

By increasing funding for renewable energy by $65 million, the Jeffords/Roth amendment will help us make this leap. Mr. President, this amendment makes sense for our future and our children's future. Our children should be able to enjoy sustainable, clean and renewable energy.

Mr. REID addressed the Chair.

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

Mr. REID. I compliment and applaud the Senator from Vermont and those who have joined in this amendment. As we have said earlier, the administration recommended a higher level for this particular program—solar and renewable. The movers of this amendment have also recommended that this body move higher with solar and renewable. I think that their efforts are certainly to be congratulated.

It is a very difficult bill, as we have explained on other occasions. There is a limited amount of money to do a number of different things. The Senator from Vermont has done a very good job of explaining the importance of renewable energy in this country. Of course, he mentioned a number of programs in Nevada that are important. We have geothermal. We have solar that we are working on. So we certainly look forward to working with him on this amendment.

I am waiting for the manager to come back. I think there is a good chance we may accept this amendment. I know it is acceptable on this side.

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

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

Mr. JEFFORDS. Mr. President, after discussions with the chairman of the subcommittee and the ranking member, I understand that we are in a position where the amendment can be accepted with striking a certain provision. I am doing that and am going to accept that proposition with the understanding that there will be a strong effort to fight to maintain the amendment as best they can in the committee of conference, because the history has been that on these amendments, which have been accepted in the past, they kind of disappear in conference. But I have the good-faith-effort commitment of the Senator from New Mexico, and I accept that, as I know him and I know his character; and the same with the Senator from Nevada.

So, Mr. President, I now move to amend my amendment by striking all after line 8 on page 3 of the amendment.

Mr. DOMENICI. Would you not do that for a moment?

Mr. JEFFORDS. I withdraw my request.

Mr. DOMENICI. I don't want any misunderstanding. I don't want the Senator withdrawing that based upon a unilateral statement that he has made.

I think I must make my statement in the RECORD.

Mr. JEFFORDS. I appreciate that.

Mr. DOMENICI. Then the Senator can do whatever he wants—leave it in and we have a fight or take it out and we accept it.

Mr. President, I am not committing that I will return in the conference with this fully funded. I don't know that I can do that. What I am suggesting is I will do my dead-level best. I don't go there with the intention of throwing the amendment away. I go there intending to try to see if we can fund it. I have every confidence that we will find some money to exceed what is in the bill. Now, whether it can be exactly this amount or not, I have no idea at this point. That will be the dynamics, and a lot of things in the amendment that are very difficult that I am not agreeing to right now.

I am agreeing to accept the amendment and we will take it to conference on those terms. The Senator can rely on what I have just said.

With that, if he will remove the handwritten part that was added, that is fine. If he does not want to, then clearly I don't have any reluctance to having a full-blown debate on this amendment today. I have plenty of time. I don't want to do that if we can get it done the way we have just talked about, otherwise we will just proceed.

Mr. REID. Mr. President, I have already said that I appreciate the offer of the amendment by the Senator from Vermont and the statement by the Senator from Delaware.

I have indicated that Senator DOMENICI and I have had and will work to increase the number that we have in this bill. We have all been to conferences and we will do the very best we can. I believe in these programs. I think it would be to everyone's interest that we go ahead on that basis. I don't think it would serve anyone's interest, after we have agreed to accept this amendment, to now have a full debate on it. If, in fact, my friend from Vermont wants one, we can do that. There are things in the program we can all talk about that I think would be better left for a later time.

But I will do my share with the chairman of the subcommittee, with those of us on this side of the aisle in the conference, to do everything we can to raise the number as high as we can.

The PRESIDING OFFICER. Does the Senator wish to modify his amendment?

Mr. JEFFORDS. I want to, first of all, make a comment or two. I thank both the leaders on this bill. I respect their comments. I also know that you cannot promise anything when you get into conference, but I will also be watching very carefully because in the past we have not had any success in holding these amendments.

I understand, though, that the administration is strongly in favor of more funding. I understand there may be additional funding in the health provision, so I expect that we will be able to get a significant increase at this time.

AMENDMENT NO. 2715, AS MODIFIED

Mr. DOMENICI. Has the modification taken place?

The PRESIDING OFFICER. The modification has not taken place yet.

Mr. JEFFORDS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, (No. 2715) as modified, is as follows:

On page 21, lines 2 and 3, strike "$699,836,000, to remain available until October 1, 2000, of which" and insert "$758,854,000, to remain available until October 1, 2000, of which not less than $3,860,000 shall be available for solar building technology research, not less than $72,966,000 shall be available for photovoltaic energy systems, not less than $21,617,500 shall be available for solar thermal energy systems (of which not less than $3,000,000 shall be available for the dish/engine field verification initiative), not less than $35,750,000 shall be available for power systems in biomass/biofuels energy systems, not less than $41,083,500 shall be available for transportation in biomass/biofuels energy systems (of which not less than $3,000,000 shall be available to fund the Consortium for Plant Biotechnology Research), not less than $38,265,000 shall be available for wind energy systems, not less than $4,000,000 shall be available for the renewable energy production incentive program, not less than $7,000,000 shall be available for solar program support, not less than $5,087,500 shall be available for the international solar energy program, not less than $680,000 shall be available for solar technology transfer, not less

than $5,000,000 shall be available for the National Renewable Energy Laboratory, not less than $31,250,000 shall be available for geothermal technology development, not less than $5,000,000 shall be available for the Federal building/Remote power initiative, not less than $16,325,500 shall be available for program direction,".

On page 36, between lines 13 and 14, insert the following:

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The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Mr. President, we have no further debate on the amendment. We are going to accept it.

I will make a little comment about what happened to the budget from the President of the United States as it pertains to this bill. First of all, the President of the United States, in the budget he submitted to the U.S. Congress, is responsible for the fact that we don't have enough money to do the renewables that the distinguished Senator from Vermont comes to the floor and adds money for. The President of the United States took the water projects of this country—and these are not pet projects, these are the ports that have to be dredged in our country, dams that have to be built for flood protection, just a whole litany of them everywhere—he cut them $1.3 billion.

Frankly, all I can see in that kind of a cut is that he expected us to put the money back because we could not have kept the Corps of Engineers together with their projects out across our land. We could not have kept a viable program. Mr. President, $1.3 billion is a dramatic cut from what was needed for funding at the acceptable rate that the projects were in last year—not new ones. That money makes up the same pot of money from whence comes all of the DOE's nondefense research projects and all the water projects.

So we start off with that one pot of money, short $1.3 billion, and the President picked and chose what he would like to increase. As a matter of fact, he increased certain water projects that he has been for and forgot about the water projects that the rest of the Congress has been for, including very important projects.

Now, in order to get around that, we had to find money from places that he had dramatically increased. Even at that, we only funded those projects at between 60 and 70 percent, meaning it will cost us more money in the long run, the projects will be delayed, and some of them are very big, important projects for commerce such as ports that are to be dredged, with facilities to be built.

It wasn't, when we put this bill together, that with some kind of gusto we set about to dramatically reduce the programs that are the subject matter before the Senate right now. It was that we had an obligation to fund that fund at 60 or 70 percent. That is all we could do for the myriad of water projects across this land which have a tremendous economic impact and which save much property and save much life when they are completed.

Now, that puts in the position we are when we come to the floor here. Everybody understands that we are not going to have it much easier in conference, although thanks to the chairman of the Appropriations Committee a little more money was allocated to this committee than the President's budget because of the water project dilemma that I have just described.

Now, that is the essence of why this bill has difficulty. It is not even funded in many areas as high as it was last year. Certainly, the water projects don't have sufficient resources to stay on the course that was there. That was the best course, the optimum course, in terms of efficiency and getting the projects done so that we would save lives and save property at the earliest time.

Having said that, with no objection from the ranking member on the other side, we will accept this amendment and do our very best in conference to see that solar energy and the items mentioned in the amendment, that the funding is increased from what we had in our bill.

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

The amendment (No. 2715), as modified, was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. REID. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank Senator JEFFORDS for his cooperation.

Mr. JEFFORDS. I thank the chairman of the committee as well as the ranking member for their assistance in this. I am hopeful we are making an important step forward here in our energy self-reliance.

I yield the floor.

Mr. DOMENICI. Mr. President, in stark contrast to the last 3½ weeks, this bill is moving along very rapidly. I announce to the Senate that we can, indeed, finish this bill by midafternoon. The amendments that we are aware of that have come either through the minority, through my good friend, Senator REID, or through our side, are being worked on and we don't think there is a rollcall vote necessary on any of those. There is one amendment that the distinguished Senator from Indiana, the junior Senator from Indiana, intends to offer. It is not related exactly, to this bill, but he indicates that he will be here about 2 o'clock.

In the meantime, we are going to try to work on the amendments we have and see if we can put a package together and accept them. That will be all we will have until 2 o'clock, unless some Senator has some amendment of which we are unaware.

I really want to make sure that everybody knows I have checked with the leader. He knows of no other business on this bill, and he wants to finish this afternoon. By 2 o'clock I hope we can have the Indiana Senator call up his amendment. Again, I indicate that is the last amendment we know about.

Mr. REID. Mr. President, we would like to go to third reading early this afternoon. I say, also, to elaborate on what my friend from New Mexico says, there has been a lot of partisan rancor on this floor the last several weeks. But as I said when we introduced this bill yesterday, there are times on this Senate floor—a lot more often than people are led to believe—when things move along very well, in a bipartisan fashion. There is no better example of that than every year when we get to the appropriations bills. Sometimes we have partisan problems, but not often. I think the two leaders of this Appropriations Committee, the senior Senator from Alaska and the senior Senator from West Virginia, have set a very good tone as to how we should move on these bills. They work very well together, and they have for many years. The Senator from New Mexico and I have worked together for a number of years on this bill.

This is a good bill, a very important bill for this country, not only for domestic purposes, water projects, but also for the security of this Nation. Much of what is in this $21 billion appropriations bill deals with security of this Nation, our nuclear arsenal—the safety and reliability of our nuclear arsenal.

So I say to my friends in the Senate that not everything we do is partisan in nature. There are certain things that rise above that. This bill is one of those times when partisanship should have no bearing, as it hasn't in the last several years.

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

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

Mr. DOMENICI. Mr. President, I have already stated for the RECORD and for

the Senators what the situation is on this bill.

The managers' staffs are working on a managers' wrap-up amendment, which we think we can have done by 2 o'clock. Senator COATS will be here to offer an amendment. There will be nothing we can do until 2 o'clock.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

AMBASSADOR BILL RICHARDSON TO BECOME SECRETARY OF ENERGY

Mr. REID. Mr. President, today an announcement was made by the President that we are going to have a new Secretary of Energy, Bill Richardson, a former Congressman from the State of New Mexico, now our ambassador to the United Nations.

In 1982, I came to the Congress with Bill Richardson. We were both in the class of 1982. He had a long and distinguished career in the House where he served honorably on a number of committees, including Commerce. Of course, during the time he was a Member of the House of Representatives, he did some very unusual but very important diplomatic maneuvers—freeing various people held as political prisoners, and other efforts, which were extremely important, not only to this country but for world peace. The President had recognized that and he selected Bill Richardson to be our ambassador to the United Nations, where he has served honorably.

The need for former Congressman Richardson, now Ambassador Richardson, to return to Washington has been noticed by the President. As a result of Secretary Pena retiring, we now have a tremendous need for someone who understands Washington, and certainly Bill Richardson does that; someone who understands Government, and certainly Bill Richardson does understand Government; someone who has an understanding of the importance of the Energy Department, and Bill Richardson has that understanding based upon his being from New Mexico where so much dealing with things nuclear have taken place for the last 60 years.

So, Mr. President, I am elated and enthused about the new Secretary Richardson. He has big shoes to fill, as Secretary Pena has done an outstanding job. Secretary Pena has approached his job in a bipartisan fashion. Even though he is part of this administration, he has reached out to Chairman DOMENICI and the ranking member of this subcommittee in trying to be fair and reasonable in his approach to issues that are so important to this country and to the world.

I applaud and commend the administration for selecting Bill Richardson to be the next Secretary of Energy.

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

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

CONGRATULATING THE DETROIT RED WINGS ON WINNING THE 1998 STANLEY CUP

Mr. LEVIN. Mr. President, I rise to speak on S. Res. 251, which has been introduced by myself and Senator ABRAHAM, which I am confident will be passed later on today. This resolution congratulates the Detroit Red Wings for their second successive Stanley Cup victory. Tuesday night, the Red Wings defeated the Washington Capitals 4 to 1. This is the second time in 2 years that the Red Wings have swept the Stanley Cup finals—four straight.

In perhaps the most moving and memorable moment of the evening, after the victory, the Stanley Cup was placed in the lap of Vladimir Konstantinov, who was injured after last year's Stanley Cup victory in an automobile accident. I have come to know Vlady and his wife Irina during this past year, when they have recovered, at least partly, from that terrible tragedy of a year ago. What is extraordinarily moving is the way the Red Wings—indeed, all the Red Wings' fans—have become a closer family as a result of that accident, the way they have surrounded Vlady with love and support. The whole town—indeed, our whole State and to some extent the entire country—has come to the support of Vladimir Konstantinov. When he was pushed in his wheelchair around the ice at the MCI Center on Tuesday night, with the Stanley Cup in his lap, surely we reached a new height in terms of what family means and what family is all about.

The Red Wings have surely the greatest hockey fans on Earth. Detroit lives and breathes hockey, and there are a legion of fans all over our State and throughout the country who came to the MCI Center on Tuesday night. There was a sea of red shirts in the stands. I was one of those who had the pleasure of being there to see this very, very special victory. I also, though, want to not just pay my respects and appreciation to the players who brought home the cup again, and the Konstantinovs and those who supported that team, but also to the Caps fans who treated the Red Wings fans in the audience with such decency and civility.

I have been to a lot of Red Wings games away from home where that was not true, where the opponents' fans, indeed, were quite hostile to their opponents. But on Tuesday night, as was true on Saturday night, the Caps fans treated us very, very civilly indeed. And when it came that moment, that very magic moment in the third period when the fans were serenading Vlady, who was sitting up with Irina in the stands, the Caps fans joined with the Red Wings fans in the arena singing, "Vlady, Vlady, Vlady." That was also a moment I will always remember and cherish. Our captain, Steve Yzerman, won the Conn Smythe Trophy, deservedly so. He has been an extraordinary role model for so many young players, as Detroit Red Wings before him were role models for him.

Speaking just for one more moment on that subject, when I was young and my brother Sander was young, we used to go down to Olympia frequently with my mother, going up to the cheapest seats available, three flights up in the balcony, where we rooted for an earlier generation of great Red Wings, the so-called Production Line of Sid Abel, Gordie Howe and Ted Lindsay, and our great goalie Terry Sawchuck in those years, in the fifties, who brought home the Stanley Cup on many occasions to Detroit.

That has happened again this week. The Red Wings fans, perhaps a million of them, have just finished celebrating in a parade down Woodward Avenue from the Fox Theater to the Hart Plaza. The Hart Plaza, by the way, is named after a former U.S. Senator, one who touched the hearts and the souls of this body, Phil Hart. The place where that parade started was the Fox Theater, and it was very appropriate that that be the place because that theater has been restored by the Ilitchs, Mike and Marian Ilitch, who are the owners of the Detroit Red Wings. I only wish I could be there to greet my friends the Ilitchs in person today, to thank them again for what they have done for our city. But how sweet that victory was, how moving that victory was, how important these events are in terms of gluing our communities together, bringing us together as family.

With the shouts of, "Go, Wings, go!" still ringing in my ears, they now can savor the victory of a Stanley Cup. Just as their names are engraved on that cup, so their names will be engraved in this resolution when it passes, after Senator ABRAHAM has an opportunity to get to the floor.

With that, I yield the floor and 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. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Mr. DORGAN. Mr. President, I understand that we are in morning business. However, the pending business, beginning at 2 o'clock, is the Energy and Water appropriations bill. I will make a couple of comments about the legislation brought to the floor by Senator DOMENICI and the ranking member, Senator REID.

I am a member of the Subcommittee on Energy and Water, and I support this piece of legislation. I think Senator DOMENICI and Senator REID have done a wonderful job. I understand that a lot of the details of this legislation will not be discussed at great length today, but I want to mention a couple of things in this bill just for purposes of alerting people that there are some significant problems that are being addressed, especially in the State of North Dakota, in this legislation.

One piece of this legislation deals with funding for something called the Garrison Diversion Project. Now, that is a foreign language to most people, and no one really would be expected to know much about the Garrison Diversion Project in North Dakota. But I want to give some history, just for a few brief minutes, about this project and why it is important.

Many years ago, the Missouri River—which was an aggressive, large river coming out of the mountains in Montana—was untamed, and during the spring flooding it would race down over its banks, and in the lower regions of the Missouri River down in Kansas City and elsewhere you would have massive flooding, flooding, in fact, all the along the way, including cities in North Dakota. It became a huge problem. Federal officials said let us try to harness the Missouri River with a series of dams. They proposed a series of "stem" dams on the Missouri River and one would have been in North Dakota.

In the 1940s, the Federal officials said the folks downstream want the river harnessed so it won't flood, so they don't have all the problems downstream. What we would like to do is build a dam in your State. We would like to have a flood come to your State—behind the dam—that comes and stays forever. The flood in your State of North Dakota will be a 500,000-acre flood about the size of the State of Rhode Island. So they said to North Dakotans—in the 1940s—if you will allow us to put a permanent flood in your State by building a dam and damming up the water behind it, put a permanent flood that comes and stays forever in your State, we will give you the ability to move that water behind that dam in that reservoir around the State for a whole range of important purposes, including municipal, rural and industrial water needs.

People of North Dakota thought, that is not a bad deal. We will accept the flood that comes and stays forever, but then we will get this promise from the Federal Government of being able to take water from behind that dam and moving it around the State to improve water supplies to farmsteads, cities and so on in North Dakota, to provide water for industrial development and a whole range of things that will create more economic growth in the State.

So they built the dam. President Eisenhower came out and dedicated the dam. Then they created the flood. So the dam is there, the flood came, the flood stayed, and we have a Rhode Island-size flood in our State forever.

So we got the cost, we are now hosts to a permanent flood, but we have not yet gotten all of the benefits. And that is what the Garrison Diversion Project and the funding in this bill is about.

With the consent of the Presiding Officer, I will show my colleagues, or at least provide a demonstration today for those watching, the quality of water that we are talking about in some of our communities.

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

Mr. DORGAN. Mr. President, I brought to the floor a little container of water. Now I know this looks very much like coffee. It is not coffee. It is well water from a well at Keith and Ann Anderson's place in North Dakota. The water that comes from that well, looking like the color of coffee, is water that will be replaced by water behind the Garrison Dam from the Missouri River.

That new water, the fresh water, coming out of the mountains from Montana in that large reservoir now in North Dakota can be moved around our State and can replace this water and we will have safe, wholesome and healthy drinking water in communities and on farmsteads in our State.

That is one part of this project. This chart shows what I have just showed a moment ago, the color of some of this water, the quality of the water that is being used, forced to be used in some communities, in some farmsteads in North Dakota and why we must find a supplemental supply for it. That is what this project is about. Water delivered to rural North Dakota by pipeline behind the reservoir looks like this clear water, and it replaces this brown water.

Is that good for people's health? Of course it is. Is it good for our State? Is it a good investment in our future? Of course it is. Is it, more importantly, keeping a promise to a State that got the cost of a flood that comes and stays, keeping the promise to be able to use that water for economic development for our future? Yes, that is an important promise for this government to keep. For that, I appreciate the work of the Senator from New Mexico and the Senator from Nevada today on this piece of legislation.

I will make a point about one additional provision in this legislation dealing with some construction money for what is called an emergency outlet at Devils Lake, ND. I show a photograph that was taken in 1965. This is a woman standing next to the bottom of a telephone pole. She is looking up to the top of the pole. The pole actually ended about here. This lake, is now way up to here, far, far above her head. This is Devils Lake, which is part of a basin the size of the State of Massachusetts. It is one of two closed basins in the United States. One is the Great Salt Lake and one is Devils Lake.

In this basin the water runs down, just like any funnel, except there is no place for it to go. This lake has gone up and up and up. You can see, relative to this picture in 1965, where the water is today. This graph shows it even better. It shows what has happened over 150 years with respect to the water level. It is at 1,445.5 feet now. The cumulative damages from all of this are substantial: hundreds of millions of dollars, threatening people's homes, inundating farmland, threatening cities. This has been a huge problem, and there is no obvious solution for it—at least there is no one obvious solution.

We are working on a range of things to try to resolve and respond to this issue: No. 1, upland storage, up in the upper part of the basin, to store water so it doesn't flow down to the lake, building dikes to protect cities; No. 3, raising roads, which is expensive, we have had to raise roads and then raise them again; No. 4, an emergency outlet to try to take some pressure off of that lake—an emergency outlet that would go over to the Sheyenne River. That is what is in this piece of legislation—another component of financing for an emergency outlet from Devils Lake.

I know for those who have never seen or heard of Devils Lake that this doesn't mean very much. But this means almost everything to the people in the region and who are now threatened every day by this lake that continues to rise. The lake has doubled in size and tripled in volume in just a few short years. It now threatens a very substantial city in our State, cripples an economy, inundates roads, and it is a very, very serious problem.

The piece of legislation before us provides another increment of construction funding for an emergency outlet. The outlet would not be huge; it would

not be an outlet sufficient to let a lot of water off of the lake. But the outlet would remove a foot to a foot and a half a year of water from the lake depth. Marginally, over a period of years, it would help to take some pressure off of that lake.

So that is the story of these two projects. Once again, I wanted to simply indicate that both of them are very important. We have had the cooperation of the chairman of the subcommittee, the ranking member, and others, on the appropriations subcommittee, to get some funding for both of these projects. Both projects will be good investments in our country and in our country's future.

I commend the Chairman of the Energy and Water Subcommittee, Mr. DOMENICI, and the ranking member, Mr. REID, for the consideration given to the people of North Dakota in the Fiscal Year 1999 Energy and Water Appropriations bill. The people of North Dakota are most thankful for the Appropriations Committee's support of the state's priority water projects, particularly the Devils Lake emergency outlet and the Garrison Diversion project.

I am privileged to serve on the Subcommittee and I note that Senator DOMENICI, in his statement before the Full Committee, remarked that he was able to provide only between 60–70 percent of the optimal funding level for water project construction in this bill. He faced enormous difficulties in this bill brought on by a budget request which was $1.8 billion below the level required to continue ongoing construction projects at their optimal level.

In the face of these difficulties, the Subcommittee supported funding for an emergency outlet from Devils Lake—a body of water that normally has no natural outlet. It's a body of water that is rising inexorably and with a vengeance, displacing people, rendering formerly productive fields and roads useless. The devastating flooding in the Devils Lake region is very similar to recent flooding at Salt Lake, Utah—the other major closed basin in the United States.

A headline this week from a local newspaper reads: "Economic costs of Devils Lake flood are staggering." More than 170 homes have had to be moved. Damage to roads, bridges, and other property is estimated at around $250 million. And 70,000 acres of prime land have disappeared. The long-term effects of this flood emergency on personal incomes, on regional agriculture and local businesses, and on the local tax base are as yet undetermined. But the short-term impacts are unmistakable as bankruptcies multiply, farm auctions become routine, and local governments scratch to pay for mounting costs with dwindling revenues.

The Senate Subcommittee and Full Committee honored the President's request for funding to address this emergency. Some predictions are that the lake could keep on rising and eventually spill into the Sheyenne River, resulting in a flood of unknown magnitude, but sure to result in the loss of key roads, vital infrastructure and thousands of acres of farmland. Such an uncontrolled outflow from the east end of the lake, with extremely high levels of dissolved solids, would create environmental havoc for the water supplies of downstream communities.

For these reasons and others, the Committee wisely provided additional funding for an emergency outlet from the west end of the lake, where water quality is compatible with the Sheyenne River. Controlled releases would also be managed so as to avoid any downstream flooding.

I would further point out to my colleagues that the project must meet tough fiscal and engineering tests, besides complying strictly with the National Environmental Policy Act and the Boundary Waters Treaty of 1909. The latter requirement involves full consultation with the International Joint Commission in order to address potential concerns of the Government of Canada.

Finally, let me emphasize that the appropriation for an outlet bars the use of these funds to build an inlet to Devils Lake. Despite the lingering fears of some interests, neither the FY 1999 appropriations nor the prior appropriations would allow for an inlet. Moreover, pending legislation to revise North Dakota's main water development project, the Garrison Diversion Unit, includes no provision for either an inlet to or an outlet from Devils Lake. This reflects a joint determination by the bi-partisan elected leadership of North Dakota on how to proceed with these projects.

This FY99 funding bill also addresses another emergency situation near Williston, North Dakota. There again rising waters are threatening to render useless thousands of acres of farmland in the Buford-Trenton project and to displace farmers. The funding provided by the Senate will allow for the purchase of easements which are authorized under the Water Resources Development Act of 1996. This is another extremely important project which the Senate has supported at a reasonable level.

The Subcommittee has added $6 million to the budget request the Garrison Diversion project, in order to meet the federal responsibility for critical water development needs in our state. Let me state that the key to economic development in North Dakota is water development and that the key to water development is the Garrison Diversion project.

Let me illustrate the importance of this project. Garrison funding will ensure that Indian tribes can provide clean drinking water to tribal members that often have to use some of the worst water in the nation. It will also deliver reliable water supplies for irrigation, industry, and residential use in semi-arid regions of the state and to communities whose normal drinking water looks more like tobacco juice. Moreover, the bill will continue to support environmental enhancements and wildlife habitat by means of such Garrison programs as the Wetlands Trust.

In a word, the Garrison funding will help to fulfill the federal commitment to develop a major water project in North Dakota to compensate the state for the loss of 500,000 acres of prime farmland. This land was flooded behind the garrison Dam in order to offer flood protection and inexpensive hydro power to states downstream.

I would also advise my colleagues that North Dakota's elected leaders are working on legislation to revise the Garrison project to meet the state's contemporary water supply needs in a fiscally and environmentally responsible way. The Garrison revision bill will refocus the project to provide municipal, rural and industrial water supplies to regional water systems, Indian reservations, and the Red River Valley while enhancing fish and wildlife habitat.

Finally, the bill before the Senate has supported funding which will allow the Army Corps of Engineers to proceed on a long-term flood protection plan for the city of Grand Forks, North Dakota on the Red River. Approximately one million dollars included will be used for preparatory studies and planning of the permanent levees to protect the sister cities of Grand Forks, North Dakota and East Grand Forks, Minnesota that were devastated in the catastrophic floods of 1997.

My purpose today is to thank the leadership of the Energy and Water Subcommittee, and the Full Committee leadership, Mr. STEVENS and Mr. BYRD, for addressing in this bill projects of critical importance to North Dakota. Their leadership is appreciated.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is currently in morning business, and Senators are permitted to speak for up to 10 minutes.

DELAYS IN SENATE ACTION ON JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, just a couple of weeks ago, I commented in the CONGRESSIONAL RECORD on the Senate majority's poor record in acting on judicial nominees, especially noting those judicial nominees who are either minorities or women. I included a recent letter from the Congressional Hispanic Caucus, which calls upon the Senate Republican leadership to allow votes on the Latino judicial nominees who have languished in the Senate for far too long.

I have also spoken often about the crisis in the second circuit and the need for the Senate to move forward to confirm the nominees to that court who are pending on the calendar. Judge Sonia Sotomayor is just such a qualified nominee, and she is one being held up by the Republican majority, apparently because some on the other side of the aisle believe she might one day be considered by President Clinton for nomination to the U.S. Supreme Court, should a vacancy arise.

Last week, a lead editorial in the Wall Street Journal discussed this secret basis for the Republican hold against this fine judge. The Journal reveals that these delays are intended to ensure that Sonia Sotomayor not be nominated to the Supreme Court, although it is hard to figure out just how that is logical or sensible.

In fact, how disturbing, how petty, and how shameful: Trying to disqualify an outstanding Hispanic woman judge by an anonymous hold.

I have far more respect for Senators who, for whatever reason, wish to vote against her. Stand up; vote against her. But to have an anonymous hold—an anonymous hold—in the U.S. Senate with 100 Members representing 260 million Americans, which should be the conscience of the Nation, should not be lurking in our cloakrooms anonymously trying to hold up a nominee. If we want to vote against somebody, vote against them. I respect that. State your reasons. I respect that. But don't hold up a qualified judicial nominee.

I was asked last week by Neil Lewis of the New York Times about this circumstance. He correctly reported my response in a front page story this last Saturday. I am offended by this anonymous effort to oppose her prompt confirmation by stealth tactics. Here is a highly qualified Hispanic woman judge who should have been confirmed to help end the crisis in the Second Circuit more than three months ago.

The times Argus recently included an editorial entitled "Partisan Nonsense" on this hold. The editorial notes that Judge Sotomayor rose from a housing project in the Bronx to Princeton, Yale and a federal court appointment by President Bush, a Republican. The editorial notes that the stalling tactics are aggravating the judicial emergency faced by the Second Circuit caused by judicial vacancies for which the Republican leadership in the Senate refuses to consider her, and another worthy nominee. The editorial concludes by urging me to make "a lot of noise over this partisan nonsense."

I don't always follow the editorials in my home State. But this one I am happy to follow.

I will continue to speak out on behalf of Judge Sotomayor and all the qualified nominees being stalled here in the U.S. Senate.

Judge Sotomayor in not the only woman or minority judicial nominee who has been needlessly stalled. Indeed, if one considers those nominees who have taken the longest to confirm this year, we find a disturbing pattern:

Hilda Tagle, the only Hispanic woman the Senate has confirmed this year, took 32 months to be confirmed as a district court judge for the Southern District of Texas. That is more than two-and-one-half years.

Judge Richard Paez, currently a district court judge and a nominee to the Ninth Circuit, was first nominated in January 1996. Twenty-nine months latter, Judge Paez's nomination remains in limbo on the Senate calendar.

Nor have we seen any progress on the nomination of Jorge Rangel to the Fifth Circuit or Anabelle Rodriquez to the District Court for Puerto Rico, although her nomination was received in January 1996, almost 29 months ago.

For that matter, we have seen the President's nomination of Judge James A. Beaty Jr., the first African-American nominated to the Fourth Circuit, stalled for 30 months, since December 1995. The situation in the Fourth Circuit was the topic of a Washington Post editorial past Saturday. We have seen the attack on Judge Frederica Massiah-Jackson, who would have been the first African-American woman to serve on the Eastern District of Pennsylvania, but who was forced to withdraw. We have seen the nomination of Clarence Sundram held up since September 1995, almost 33 months.

In his annual report on the judiciary this year on New Year's Day, the Chief Justice of the United States Supreme Court observed: "Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994." He went on to note: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." Which of course is absolutely correct.

For some unexplained reason, judicial nominees who are women or racial or ethnic minorities seem to take the longest in the Senate. Of the 10 judicial nominees whose nominations have been pending the longest before the Senate, eight are women and racial or ethnic minority candidates. A ninth has been delayed in large measure because of opposition to his mother, who already serves as a judge. The tenth is one who blew the lid off the $1.4 million right-wing campaign to "kill" Clinton judicial nominees.

Pending on the Senate calendar, having been passed over again and again, are Judge Sonia Sotomayor, Judge Richard Paez, Oki Mollway and Ronnie White. Held up in committee after two hearings is Clarence Sundram. Still without a hearing are Anabelle Rodriquez, Judge James A. Beaty Jr., and Jorge C. Rangel. What all these nominees have in common is that they are either women or members of racial or ethnic minorities.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its member—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees in the 104th and 105th Congresses, the Senate is shirking its duty. The Senate majority's choices as they stall Hispanic, women and minority nominees is wrong and should end.

Mr. President, I have served here for nearly 24 years. I know Members of the Senate. I have enormous respect for so many of them, Republicans and Democrats alike. The vast majority of Senators I have served with do not have any bias or ethnic bias against people. They do not have a religious bias. They do not have a gender bias. But somehow ethnic and gender biases have crept into the stalling of these nominations.

If Senators are opposed to any judge, bring them up and vote against them. But don't do an anonymous hold, which diminishes the credibility and respect of the whole U.S. Senate.

I have had judicial nominations by both Democrat and Republican Presidents that I intended to oppose. But I fought like mad to make sure they at least got a chance to be on the floor for a vote.

I have stated over and over again on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.

If we don't like somebody the President nominates, vote him or her down. But don't hold them in this anonymous unconscionable limbo, because in doing that, the minority of Senators really shame all Senators.

With that, Mr. President, I see Senators have come back to the floor for their debate. So I ask unanimous consent that copies of the editorials of the Times Argus and the Washington Post, and the report from the New York Times, which I referred to, be printed in the RECORD.

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

[From The Times Argus, June 15, 1998]

PARTISAN NONSENSE

You may never have heard of a federal district judge named Sonia Sotomayor, and it appears that several key Republicans are hoping you never will. They'd like her to simply vanish from the nation's political radar screen, but Vermont's Sen. Patrick Leahy is among those who stand in their way.

It appears these political foes of President Clinton are afraid that if they confirm Judge Sotomayor's nomination to the 2nd District U.S. Circuit Court of Appeals, as Clinton has proposed, her next stop will be a seat on the United States Supreme Court.

Although Sotomayor grew up in the sprawling housing projects of the Bronx, where success stories are less than commonplace, she managed to graduate with high honors from Princeton, become editor of the Yale Review and earn a reputation as an effective federal prosecutor.

In 1992, she was appointed to the federal bench by then-President George Bush. That would seem to suggest she had bipartisan support, but that was before some nervous Republicans began to fear there may soon be an opening on the Supreme Court. That opening, they worried, would allow Clinton to nominate Sotomayor, a woman and an Hispanic.

Of course there is no vacancy on the high court, nor has there been any clear signal that there will be one any time soon. Justice John Paul Stevens, who many believe will be the first of the present batch of justices to retire, has already hired his clerks for the next court session. In addition, Sotomayor's name was not on a list of recommended nominees the Hispanic National Bar Association submitted to Clinton.

But even if there was a pending vacancy, what is it about Judge Sotomayor that would make Republicans so worried? Is it that she's Hispanic? Is it that she's too liberal, or too much a judicial activist?

For the record nobody is saying, but off the record, some Senate aides concede their bosses are worried she would, indeed, be an activist. Interestingly, conservative supporters of Judge Sotomayor's nomination vehemently disagree with that assessment.

Enter Sen. Leahy, the senior Democrat on the Judiciary Committee. In blunt terms, Leahy has criticized the Republicans who, behind the scenes and not for attribution, are seeking to scuttle Sotomayor's nomination.

"Their reasons are stupid at best and cowardly at worst," Leahy told a New York Times reporter. "What they are saying is that they have a brilliant judge who happens to be a woman and Hispanic and they haven't the guts to stand up and argue publicly against her on the floor. They just want to hide in their cloakrooms and do her in quietly."

Those are strong words, particularly for the United States Senate, but Leahy's anger is genuine and justified.

The campaign against Judge Sotomayor began on the editorial pages of the ultra-conservative Wall Street Journal and was given much wider exposure when it was taken up by Rush Limbaugh, the right wing radio talk show host.

The Journal was upset with Sotomayor's ruling that a coalition of New York businesses promoting a program for the homeless had violated federal law by not paying the minimum wage. This, in the Journal's opinion, constituted "judicial activism."

But a well-known conservative, Gerald Walpin, has rushed to Sotomayor's defense and his message is worth heeding.

"If they had read the case they would see that she said she personally approved of the homeless program but that as a judge she was required to apply the law as it exists," Walpin commented. "She wrote that the law does not permit an exception in this case. That's exactly what conservatives want a non-activist judge who does not apply her own views but is bound by the law."

What's particularly aggravating by the stalling tactics of Clinton's foes is that they come at a time of major judicial delays caused by the existing vacancies on the bench Judge Sotomayor would fill. The chief judge of the circuit, a conservative Republican, has written about having to declare "judicial emergencies" because of these vacancies.

We hope Sen. Leahy makes a lot of noise over this partisan nonsense.

[From the New York Times, June 13, 1998]

G.O.P., ITS EYES ON HIGH COURT, BLOCKS A JUDGE

(By Neil A. Lewis)

WASHINGTON, June 12—Judge Sonia Sotomayor seemed like a trouble-free choice when President Clinton nominated her to an appeals court post a year ago. Hers was an appealing story: a child from the Bronx housing projects who went on to graduate summa cum laude from Princeton and become editor of the Yale Law Journal and then a Federal prosecutor.

Moreover, she had been a trial judge since 1992, when she was named to the bench by the last Republican president George Bush.

But Republican senators have been blocking Judge Sotomayor's elevation to the appeals court for a highly unusual reason: to make her less likely to be picked by Mr. Clinton for the Supreme Court, senior Republican Congressional aides said in interviews.

The delay of a confirmation vote on Judge Sotomayor to the United States Court of Appeals for the Second Circuit, based in New York, is an example of the intense and often byzantine political maneuverings that take place behind the scenes in many judicial nominations. Several elements of the Sotomayor case are odd, White House officials and Democrats in Congress say, but the chief one is the fact that there is no vacancy on the Supreme Court, and no firm indication that there will be one soon. Nor is there any evidence of a campaign to put Judge Sotomayor under consideration for a seat if there were a vacancy.

Judge Sotomayor's nomination was approved overwhelmingly by the Senate Judiciary Committee in March. Of the judicial nominees who have cleared the committee in this Congress, she is among those who have waited the longest for a final vote on the floor.

Senate Republican staff aides said Trent Lott of Mississippi, the majority leader, has agreed to hold up a vote on the nomination as part of an elaborate political calculus; if she were easily confirmed to the appeals court, they said, that would put her in a position to be named to the Supreme Court. And Senate Republicans think that they would then have a difficult time opposing a Hispanic woman who had just been confirmed by the full Senate.

"Basically, we think that putting her on the appeals court puts her in the batter's box to be nominated to the Supreme Court," said one senior Republican staff aide who spoke on the condition of anonymity. "If Clinton nominated her it would put several of our senators in a real difficult position."

Mr. Lott declined through a spokeswoman to comment.

Judge Sotomayor sits on Federal District Court in Manhattan, and the aides said some senators believe that her record on the bench fits the profile of an "activist judge," a description that has been used by conservatives to question a jurist's ability to construe the law narrowly. It is a description that Judge Sotomayor's supporters, including some conservative New York lawyers, dispute.

Senator Patrick Leahy of Vermont, the senior Democrat on the Judiciary Committee, was blunt in his criticism of the Republicans who are blocking a confirmation vote. "Their reasons are stupid at best and cowardly at worst,' he said.

"What they are saying is that they have a brilliant judge who also happens to be a woman and Hispanic. and they haven't the guts to stand up and argue publicly against her on the floor," Senator Leahy said. "They just want to hide in their cloakrooms and do her in quietly."

The models for the strategy of putting candidates on appeals courts to enhance their stature as Supreme Court nominees are Judge Robert H. Bork and Judge Clarence Thomas. Both were placed on the Court of Appeals for the District of Columbia Circuit in part to be poised for nomination to the Supreme Court. Judge Bork was denied confirmation to the Supreme Court in 1987 and Judge Thomas was confirmed in 1991, in both cases after bruising political battles.

The foundation for the Republicans's strategy is based on two highly speculative theories: that Mr. Clinton is eager to name the first Hispanic person to the Supreme Court and that he will have such an opportunity when one of the current justices, perhaps John Paul Stevens, retires at the end of the current Supreme Court term next month.

Warnings about the possibility of Judge Sotomayor's filling Justice Stevens's seat was raised by the Wall Street Journal's editorial pages this month, both in an editorial and in an op-ed column by Paul A. Gigot, who often reflects conservative thinking in the Senate.

Although justices often announce their retirements at the end of a term, Justice Stevens has not given a clue that he will do so. He has, in fact, hired law clerks for next year's term. The Journal's commentary also criticized Judge Sotomayor's record, particularly her March ruling in a case involving a Manhattan business coalition, the Grand Central Partnership. She rules that in trying to give work experience to the homeless, the coalition had violated Federal law by failing to pay the minimum wage.

Gerald Walpin, a former Federal prosecutor who is widely known in New York legal circles as a staunch conservative, took issue with the Journal's criticism.

"If they had read the case they would see that she said she personally approved of the homeless program but that as a judge she was required to apply the law as it exists," he said. "She wrote that the law does not permit an exception in this case. That's exactly what conservatives want: a nonactivist judge who does not apply her own views but is bound by the law." Mr. Bush nominated Judge Sotomayor in 1992 after a recommendation from Daniel Patrick Moynihan, New York's Democratic Senator.

It also remains unclear how some Senate Republicans came to believe that Judge Sotomayor was being considered as a candidate for the Supreme Court. Hispanic bar groups have for years pressed the Clinton Administration to name the first Hispanic justice, but White House officials said they are not committed to doing so. The Hispanic National Bar Association has submitted a list of six candidates for the Supreme Court to the White House. But Martin R. Castro, a Chicago lawyer and official of the group, said Judge Sotomayor's name is not on the list.

The only Republicans to vote against her in March were Senator John Kyl of Arizona and Senator John Ashcroft of Missouri. The committee's other conservative members, including Orrin G. Hatch of Utah and Strom Thurmond of South Carolina, voted in her favor. Mr. Kyl and Mr. Ashcroft both declined to comment today.

[From the Washington Post, June 13, 1998]

UNPACKING THE COURT

The saga of the North Carolina seats on the U.S. Court of Appeals for the 4th Circuit is a caricature of the power individual senators have to hold up judicial nominations. In 1990 Congress added some seats to the 4th Circuit, including one for North Carolina. to this day—7½ years later—that seat remains vacant. The reason is a byzantine power play by Sen. Jesse Helms.

The first nomination to the ghost seat was made by President Bush in 1991. He picked a conservative district court judge and Helms favorite named Terrence Boyle. That nomination was dropped—much to Mr. Helm's fury—when Mr. Bush subsequently lost the 1992 election. Since then Mr. Helms has stymied President Clinton's efforts to fill the seat. When President Clinton named Rich Leonard to it late in 1995, Mr. Helms blocked the nomination, and the Senate never acted on it. With no prospect of success, the nomination was not resubmitted in the next Congress. What's more, since Judge Dixon Phillips Jr. took senior status in 1994 and thereby opened another North Carolina slot on the court, Mr. Helms has also blocked the administration's attempts to fill that seat. As a result, the president's choice—U.S. District Judge James Beaty Jr.—has been in limbo for 2½ years without getting even a hearing. Mr. Helms has not even indicated to the administration what sort of nominees might be acceptable.

Mr. Helms has argued in talks with the administration that the court needs no more judges—a point on which he is, ironically, supported by the 4th Circuit's own conservative chief judge, Harvie Wilkinson III. Mr. Helms, however, was making no such argument when Judge Boyle was up for the slot. And it's a bit difficult to imagine him making the same point now were the president's nominees not likely to add a little ideological—and, for that matter, ethnic—diversity to one of the most conservative courts in the country. Mr. Clinton's nominees would, indeed, change the 4th Circuit—which covers Maryland, Virginia, South Carolina, West Virginia and North Carolina—and the arch-conservative senator cannot be required to relish this prospect.

But ultimately the Constitution gives the president, not individual senators, the power to name judges. And Mr. Helms's effort to keep the court conservative by keeping it small is an improper aggrandizement of his own rule.

Mr. LEAHY. Mr. President, if I have time left, I yield it back. I yield the floor.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 17, 1998, the federal debt stood at $5,491,718,359,124.33 (Five trillion, four hundred ninety-one billion, seven hundred eighteen million, three hundred fifty-nine thousand, one hundred twenty-four dollars and thirty-three cents).

One year ago, June 17, 1997, the federal debt stood at $5,329,352,000,000 (Five trillion, three hundred twenty-nine billion, three hundred fifty-two million).

Five years ago, June 17, 1993, the federal debt stood at $4,296,788,000,000 (Four trillion, two hundred ninety-six billion, seven hundred eighty-eight million).

Ten years ago, June 17, 1988, the federal debt stood at $2,526,239,000,000 (Two trillion, five hundred twenty-six billion, two hundred thirty-nine million).

Fifteen years ago, June 17, 1983, the federal debt stood at $1,303,759,000,000 (One trillion, three hundred three billion, seven hundred fifty-nine million) which reflects a debt increase of more than $4 trillion—$4,187,959,359,124.33 (Four trillion, one hundred eighty-seven billion, nine hundred fifty-nine million, three hundred fifty-nine thousand, one hundred twenty-four dollars and thirty-three cents) during the past 15 years.

BUILDING A BETTER WORLD AWARD

Mr. CAMPBELL. Mr. President, today I take a moment to acknowledge the new "Building a Better World" Award which CH2M HILL, an employee-owned company which is headquartered in Denver, has initiated. William D. Ruckelshaus, Chairman of BFI and former EPA Administrator, was presented with CH2M HILL's inaugural "Building a Better World" award in ceremonies at the Smithsonian Institution's Castle in Washington, DC on May 6, 1998.

CH2M HILL created this award to recognize the contributions of private citizens or organizations that reflect the company's core business value of making technology work to build a better world. The work of its 7,000 employees worldwide involves assisting public and private sector clients in planning, design, program management, and often construction for drinking water, wastewater management, hazardous waste management, transportation, nuclear waste cleanup projects, and industrial activities.

In choosing a recipient for this inaugural award, the selection panel sought to define a level of excellence that would make this award especially significant to succeeding recipients. Three key criteria are established for CH2M HILL's "Building a Better World" award:

Honorees must be deemed to have made a significant difference in improving the lives and prospects of people and society.

Contributions of honorees must be judged to be exceptional in nature and their impact substantial, distinctive and enduring.

Honorees must demonstrate an extraordinary and exemplary exercise of leadership and commitment.

In honoring Mr. Ruckelshaus with the "Building a Better World" award, CH2M HILL noted his long standing and continuing efforts in advancing environmental protection, practicing corporate responsibility, affecting sustainable development, and inspiring dynamic public and private citizenship. "Taken apart from one another, Mr. Ruckelshaus' accomplishments in business leadership, government service and environmental stewardship are extraordinary in there own right" said Ralph R. Peterson, CH2M HILL President and CEO. "Taken collectively they form a masterwork of civic character."

In establishing the "Building a Better World" award, CH2M HILL plans to honor people it knows firsthand to have made constructive, significant and lasting contributions to improving the lives and prospects of people and society. The award will be presented on a regular basis as deemed appropriate by the CH2M HILL Board of Directors.

Mr. President, this special award by a leading Colorado-based company provides another example of corporate interest and support for making the world we live in a better place.

I thank the chair and yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 2138) making appropriations for energy and water development for the fiscal year ending September 30, 1999.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I will shortly be sending an amendment to the desk. Let me just explain to my colleagues what it is I am attempting to do.

This is not the first time I have been on the floor of the Senate talking "trash," not the kind of trash that immediately comes to mind when you use that phrase but trash meaning garbage. In fact, another Senator just came by a few minutes ago and said, "This amendment you are offering is garbage." I said, "You are exactly right; it is garbage." It is all about garbage. It is all about municipal solid waste, which is a diplomatic term for garbage,

the stuff that each of us throws out every day from our kitchen—puts in a plastic bag, puts out at the curb once or twice a week, picked up by a local truck and taken to what we think is a local landfill nearby.

Unfortunately, the State I come from, Indiana, has become the local landfill for a number of States that do not have enough landfill capacity or find it cheaper to load it on a train, load it on a truck, send it overnight down our Nation's railways or highways, and drop it off in the State of Indiana. Over the past several years, we have been the recipient of millions upon millions upon millions of tons of out-of-State trash without any ability as a State to put reasonable restraints and restrictions on receipt of that out-of-State trash in order to manage our environment and manage our own destiny in terms of how we dispose of this municipal solid waste.

The Supreme Court has denied States their individual efforts to regulate this, saying that it is a violation of the commerce clause of the Constitution. But the courts have also been clear to point out the fact that if Congress affirmatively enacts legislation or constraints on the importation of out-of-State trash, or exportation of out-of-State trash, it will be constitutionally acceptable. It is just simply one of those areas where States cannot do it individually but Congress can give them the authority to do that.

We have learned a lot of things over the last several years. I have offered this legislation now five times. This is the sixth. We offered it in 1990, 1992, 1994, 1995, and in 1996, and in each of those years the Senate has passed this legislation. We now come here for the sixth time because we have been unable to secure passage in the other House, or, when we have, it has been dropped in conference. Various other means have been used to defeat the purpose of finally accomplishing what I believe is a reasonable restraint and reasonable solution to the problem that we face.

Now, Michael Jordan and the Chicago Bulls have won six titles. This is my sixth try to win one. I have five defeats, and I hope not to get the sixth defeat. So that we have Jordan and the Bulls on the one hand carrying around the trophy with astounding success, and we have Coats on the other hand loaded up with bags of trash brought in from out of State marked X defeat in 1990; X defeat in 1992; X defeat in 1994, et cetera, et cetera.

Now, I cannot blame my colleagues in the Senate. I cannot do that because through negotiation each time we have been able to work out our differences. We have been able to recognize that there are exporting States that have needs and there are importing States that have problems, and that finding a solution that merely benefits the importing States puts the exporting States in a very difficult position.

So with the help of my friend from New York, Senator D'AMATO, and the help of my friends, on a bipartisan basis we have been able to reach an accommodation which recognizes the need for importing States to have to have reasonable restraints on the amount that they can handle and at the same time gives those exporting States time to put in place mechanisms of their own to deal with their trash or to enter into arrangements with our State so that we can have some type of reasonable control over that.

We have learned those lessons, sometimes the hard way, but we have always been able to reach an agreement and a consensus, and the Senate has been tremendously supportive in the end of my efforts to do this. I am disappointed that we have not had that same kind of support in the House of Representatives. I hope we can as we try once again to convince our colleagues that this is a problem that needs a solution, that we have a solution that takes care of the problems that are facing importing States as well as exporting States.

The amendment I am going to offer today is the interstate solid waste title of S. 534, which passed twice in the last Congress. That title was carefully negotiated. What we are offering is that title in its entirety with a minor modification. We are even now negotiating that modification as I speak.

Specifically, to repeat what I have said on this floor many times, this amendment will allow a Governor, if requested by an affected local community, to ban out-of-State solid waste at landfills or incinerators that did not receive out-of-State municipal solid waste in 1993, a benchmark year.

Let me repeat that because it is a critical point to understand. A Governor is given the authority to ban receipt of out-of-State waste at a landfill that did not receive out-of-State waste in 1993 if, and only if, it is requested by the local community. If the local community wants to receive the out-of-State waste, if they want to enter into a contract with a hauler or the State wants to enter into a contract with another State, they are permitted to do so. The Governor only has the authority if the community asks him to do so and if they meet the test in terms of whether or not they received the waste in 1993. The Governor is also given the authority to freeze, not eliminate but freeze, out-of-State municipal solid waste at 1993 levels at landfills and incinerators that received solid waste during 1993. The Governor, however, may not ban or limit municipal solid waste imports to landfills or incinerators if they have what is called a host community agreement that specifically authorizes out-of-State waste. So if a community wants it, fine. But if a community feels it is overwhelmed and cannot receive it, then it can request the Governor to either ban or freeze, depending on the particular situation that exists.

Just as an example of this, we have small communities, small counties, in Indiana with landfills that were designed to serve the solid waste needs of those communities within that jurisdiction, say, for a 20- or 25-year period of time. They have gone out on a limb with a bond issue or they have come up with the financing to finance this landfill, and they suddenly find that in the period of 12 months or 18 months the entire landfill is filled to capacity, leaving the solid waste jurisdiction in dire straits, no longer able to take care of their own generated municipal solid waste simply because their landfill was clogged up and filled up with waste coming not from their area, not even within their State, but sometimes long hauled halfway across the country or brought down from another State so it is totally out of their control.

Since we started offering this amendment, shipments across the borders have continued. Large importers continue to be adversely impacted. We have been a net importer in the State of Indiana for over 7 years. In 1996, we imported 1.8 million tons of out-of-State trash. Last year, we received the largest amount ever, 2.7 million tons. From 1996 to 1997, our trash imports have increased by 37 percent and our hands are tied. We cannot control what comes across our borders and into our landfills unless we have legislation that gives us the authority to do that.

I do not want to take a lot of time; I know we are trying to move this bill along. Let me just conclude by saying I am not arguing for an outright ban on all waste shipments between States. There are examples of effective and efficient cross-border waste management. My own State of Indiana has several communities which have traditionally worked with other communities in neighboring States to receive solid waste. But we must give States some role in making waste management decisions. Without congressional authority, we will be unable to play any role whatsoever.

We must have a say in how much we receive. We must have the ability to enter into contracts. We do have to recognize the needs of exporting States, but we also have to balance those needs with importing States. We have legislation, which this Senate has passed overwhelmingly on a bipartisan basis, with exporters and importers agreeing that this is a proper balance. I am simply reintroducing what has already been accepted by this Senate with, as I said, a modest modification that even at this point we are discussing with export States to see if we can reach some agreement on that so this legislation can go forward.

AMENDMENT NO. 2716

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 2716.

Mr. COATS. 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:

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

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I am very appreciative of the problems which Senator COATS has alluded to as they relate to those States which are the recipients of large amounts of refuse, solid waste that comes from other States. Indeed, if I were a Senator from one of those States in which local communities, sometimes private landfill operations, enter into agreements and take large quantities, millions of tons of solid waste coming in, I would certainly understand why it is the Governor and/or the local officials would like to have some control with respect to the amount that comes in.

Having said that, I am appreciative of the Senator's recognition of our concern, notwithstanding that we are a State, New York, that exports millions of tons annually because we simply do not have the ability to keep it, and are now closing down the largest landfill in the world, which will be closed in the year 2001. This is a concern to us, a very important and valid concern to the City of New York and to the State as well. If a law, and/or an agreement is entered into which would preclude us from using those areas for which we have negotiated long-term contracts, and indeed would restrict us, particularly at a time when landfills are closing down in New York and the problem will become more acute, we recognize we have to deal with those problems.

Indeed, there are a number of contingencies which are being examined to dispose of this waste in the most environmentally sound and cost-effective manner. Plans are being developed, facilities are being built, land sites, new land sites within the State, are being utilized. There are a number and variety of communities that have entered into programs to recycle and to cut down on the volume. However, this is a monumental problem. Therefore, I appreciate the recognition by my colleague and friend of this problem, and I am going to ask that we have an opportunity—and I recognize people want to move on with this bill—to examine it carefully.

I tell you, I respect, again, the candor of my colleague, Senator COATS, when the fact is the threshold, the ratcheting down threshold has been reduced from when last this legislation was accepted. We passed this overwhelmingly and we worked together cooperatively, and I think it passed by something like 94 to 6. It was an overwhelming vote. But that was in 1995. Since then, while the Senator is pointing out that his State is getting more garbage, we are producing more that does not go into landfills within our State, and therefore ratcheting down is something we could not feel comfortable with. This Senator could not say we will be ready to accept limitations that are further eroded and reduced. That is a very real problem.

Second, the legislation is tied to a date, as my colleague indicates, that says, "those landfills that were receiving material, solid waste from out of State, as of 1993."

There have been, I am sure, a number of landfills that have opened up since 1993. So what this legislation would do, if passed in its present form, it would effectively deny New York or other States that export garbage the opportunity to continue that relationship they have with landfills or operations that have opened subsequent to 1993. I have to tell you, I do not know at this point how many tons of waste we would then not be able to dispose of, but it could be significant. If we were to have had a dozen additional sites nationwide opened up, we would find ourselves in a situation where we could no longer use them to dispose of any of the waste.

So I would have to ask my friend to consider updating the 1993 date as a date to determine how you would ratchet this down. It would certainly have to be something closer to—and, indeed, in 1995 we used 1993. It would seem to me as we are into 1998, we would expect at least that same kind of consideration. Without even studying it, it would seem to me we would have to put in that date, if we are going to maintain some kind of symmetry. Those landfills that were in operation as of 1996, that that would be appropriate if we are going to maintain symmetry.

Again, I haven't had a chance to check this with our State and ascertain whether in this short time they could tell us how many landfill sites have been opened, even between 1996 and today. But that is a concern, and I share that with my colleague.

We have not had an opportunity to really discuss this. Yet, I am deeply appreciative of his concerns and his offer to try to work this out. So I hope that before attempting to move to vote on this, that we could see if we cannot get some cooperative agreement. I do not know what other colleagues in some of the exporting States would feel, but I am still of a mind that if we can be accommodating and meet our needs, I want to do that. But these are two very real concerns.

No. 1, we cannot ratchet down an amount when we are producing more garbage than ever before, one that we had agreed to back in 1995. And, second, we would have to do something with the date of grandfathering those landfills. We would have to bring them up to a more current position so as to determine those which we may be using today which we were not using heretofore.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Might I ask the Senator from New York, and the Senator from Indiana, are they going to try to iron out the differences that have been alluded to?

Mr. COATS. I would hope we could. I talked to the Senator from New York, indicating we are flexible in terms of moving this on. I agree with the Senator there may be some need to have additional negotiations. Since the Senate passed this before and this language has been acceptable, we could agree to go back to the original ratchet, the original number used as the baseline for ratcheting down. We dropped it 100,000 tons—we could go back to the 750,000, if that would be acceptable and allow us to go forward with this. There is no way we can, I believe, derive an answer to the Senator's second question, which is using 1999 as a different base than 1993.

I assumed all along, based on the assurances given to us by the Senator from New York and other exporting States in the past, that development of in-State facilities was accommodating more and more of their municipal waste. In fact, I was assured of that several years ago. If they just had a 2-, 3-, 4-year flexibility, they would have their own in-State capacity or at least have the capacity that would allow them not to significantly increase the exports.

I think we can work that out. I would like, obviously, to move this along and pass the bill. We all know it is a long way from ever getting to conference because of concerns in the House on other issues. But if there is any way the Senator from New York can see to, one, agree to our offer to go back to the original figure on the ratchet basis from 650,000 to 750,000 and then my assurances that we will work with him and work with Members of the House and his delegation to address this other question—which I don't think we have the answer to at this point and can't get it in the short amount of time that the chairman wants to move this appropriations bill—I am certainly open to that.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if I can address a question to the Senator from Indiana.

Do you know if your staff has had conversations with the senior Senator from New Jersey? Because he usually has had a question on this.

Mr. COATS. We have not. All I know is, what we are offering here is exactly what the Senator from New Jersey agreed to and voted for in the past.

Mr. REID. I will say, on the minority side, we will be willing to accept this. I do have to get a clearance from Senator LAUTENBERG, who is testifying at this time, and I am sure we can get that done very quickly.

Mr. COATS. I think it is important that I go forward and ask unanimous consent to modify my amendment to change the figure on page 2——

Mr. DOMENICI. I say to the Senator, I don't think you need unanimous consent.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

AMENDMENT NO. 2716, AS MODIFIED

Mr. COATS. Mr. President, I would like to modify my amendment by changing the figure on line 25, page 2, of the amendment from "650,000 tons" to "750,000 tons."

The PRESIDING OFFICER. The amendment is so modified.

Mr. COATS. With that, Mr. President, I will tell the Senator from Nevada that he can assure the senior Senator from New Jersey that what is being offered here is identical to what was offered and agreed to in the past by the Senator and is exactly the same legislation in regard to the municipal solid waste section of that bill.

Mr. D'AMATO. Mr. President, let me say this: First of all, I appreciate the Senator's recognition of the fact that the ratchet figure has to be the same, or should be, and moving to do that. I understand he brings these requests at the request of his Governor. I do have a very serious concern, and that is, if one reads the legislation, it says:

In 1999 a State may ban 95 percent of the amount exported to a State in 1993.

That is a serious concern, understanding that, again, we are now 3 years further down the road. I don't know what the impact will be today. It is one thing to say, "Well, we agreed to that 3 years ago." I am concerned, and, again, if we are going to talk about symmetry, at the very least it seems to me that that figure will have to read "exported to a State in 1996," so that we maintain the same 2 years, the 2-year differential.

I feel much more comfortable in saying let's move the process. And, indeed, if there are other things that have to be done, hopefully in conference we can work that out with the assurance of the chairman and the ranking member that we can deal with other areas. But these are issues of very significant proportions as they relate to our local governments.

While I can understand the concern when an area is being inundated and people feel there is nothing they can do—the local legislatures—I understand that. I ask my colleague to understand what our concerns are if we have no place and valid contracts have been entered into subsequent to 1993 and we find now, as a result of moving along with this, they no longer have a place to dispose of it.

Even moving it to 1996, I say, may not be sufficient, because we may have—and not in the State of Indiana, but in other jurisdictions—opened up facilities or are presently using facilities that have been opened maybe last year, and here I am in a position that I will be agreeing that these facilities will no longer be possibly available to us. That is why I am concerned, absent that information.

If we go along with the year 1996, I hope my friend will recognize that is a very real accommodation, as opposed to 1993, and then take it on good faith that we will examine this, so that even if it goes to conference, we might have to lodge some kind of objection if we found that subsequent to 1996 there were facilities that were open that were substantial and necessary for us to accommodate the disposal of this waste. I want to be accommodating, but I have to state it in this manner so that we can both protect the interests of our States and our citizens. I think that is about as far as I can go on this.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, in response to the Senator from New York, I will state a couple of things.

No. 1, we passed this legislation in 1996. So the agreement that we had reached relative to using 1993 was acceptable to the State of New York, the State of New Jersey, and other exporters just in the last Congress. In fact, we passed it twice in the last Congress. There was no request at that time, in 1996, to change the base year from—in fact, we offered 1993 or 1994, and 1993 was a more acceptable year—there was no request then to address the concern that the Senator from New York has just raised relative to having to change that base year to accommodate what might be perceived as increased exports.

Second, I will state again for the Record that we have been repeatedly assured by exporters—by exporting States that all they needed was a little bit of time to develop more of their own capacity and that actually I think it would be just as logical a request from the Senator from Indiana or anybody from an importing State to request that we use a lower amount rather than a higher amount, because 10 years ago everybody said, this won't be a problem; 10 years ago, people said 5 years from then it wouldn't be a problem, because all they needed was 3 or 4 years to sort of get their own act together.

We understood that, and we understood the prodigious volumes of municipal waste they were generating. The population in the Senator's State I don't believe has significantly increased. In fact, I think they are losing population.

I don't know that they are necessarily generating more waste, unless people are eating more than they used to. It might be. The economy is good. Maybe there is more waste to dispose of. My daughter has moved to New York, so my wife and I go up and we eat out. I suppose that is out-of-State consumption. We try to eat everything we order, I will state for the record, so that we don't generate any more waste that can be sent back to Indiana. I don't think it is good for the Senator from Indiana to go to New York, generate waste that then is packed up that night and shipped by truck and dumped in my landfill in my hometown.

I don't understand the need to increase or to look on the assertion or the basis that they have less disposal capacity now than before when we have been assured on the floor that all they needed was just a few years to provide more in-State capacity and that would alleviate our problem. We have made very significant concessions in terms of addressing the concerns of the exporting States.

My original legislation that I offered back in 1990 gave the Governor the outright authority to flat out ban any garbage from out of State. And that passed the U.S. Senate.

We have the votes to do that. There are about 31 States that are importers. They are the ones that get dumped on. There are just a handful of States that generate the exports. But we recognize that problem. They are high-density States and generate a lot of waste.

We recognized their problem. And we address their problem. And, in so doing, we made considerable concessions about what we would continue to receive, that if a community or a municipal waste disposal jurisdiction wanted to take out-of-State waste, enter into a contract to do that, why, we would allow that to take place. We said the Governor could not outright ban; he could only freeze at certain levels.

We adjusted the baseline amounts so that we would continue to receive prodigious amounts of waste—all trying to be a good neighbor, trying to help out a State until they could develop their own disposal capacity.

Now, New York is a big State. There is a lot of room in New York to put—a lot bigger than the State of Indiana. I just assumed——

Mr. D'AMATO. Will the Senator yield?

Mr. COATS. I will be happy to yield in a moment.

I just assumed the State of New York was taking advantage of some of that

space outside of Manhattan to address those needs and by now we would not even need to be here addressing this. But something has not happened; therefore, I think to go back to the original agreement that gives States some authority to make reasonable rules relative to how much they receive and so that they can manage their own environmental affairs, something that has been approved and accepted by every Member in this body in the past, I think that is a reasonable way to proceed.

I just answer the Senator from New York by saying, I think it would be just as reasonable if I were here asking for lower baseline numbers rather than higher, but I am willing to stay where we were because that is what we worked so hard to agree on just in the last Congress.

Mr. D'AMATO. Well, if the Senator would yield just for an observation, and I observe—and I am looking at the summary of the amendment. When I look at the summary of the amendment, as drawn, it says, in 1999, greater than 1.4 million tons or 90 percent of the amount exported in 1993. Now, what we would be agreeing to is that within less than 6 months—within 5½ months—that we would agree that the following amounts could not be greater than 1.4 million tons or 90 percent of the amount exported in 1993. What I am saying is, I am willing to go along with the 1.4 million tons or 90 percent of that exported in 1996. OK.

Now, let me also say that in 1 year and 5½ months—if you go to the next year—it says in 2000, greater than 1.3 million tons. You go down to 1.3 million or 90 percent of the amount exported in 1999.

So what I am suggesting is that I cannot in good conscience support an agreement when I do not know what we have done between 1993 and to date. But I am willing to take it up to 1996. And we are talking about 5 months. And then within a year you get the second figure that triggers off. So I am just talking about 1 year.

You cannot ask us to put ourselves in the position to have us sign off on this. I think even taking 1996 is Russian roulette to the extent—I hate to say it is Russian roulette—but at least there is a symmetry between what we did before. And I only do this on the basis that when we go to conference, if indeed we have some severe problems, I will notify the committee. And if the Governor's office advises us there is no way they can possibly do it, I will notify the committee. And I think they would act responsibly to make the necessary changes or to drop the legislation.

I have to be candid with you on this, so I suggest that is about as far as I could possibly go at this time. And I do it in the spirit of accommodation.

Mr. COATS. So Mr. President, as I understand it, the Senator is proposing that relative to the export ratchet——

Mr. D'AMATO. Yes.

Mr. COATS. Only for the year 1999——

Mr. D'AMATO. No.

Mr. COATS. The first line of the summary—only for the year 1999, the Senator would like to change the base year from 1993 to 1996.

Mr. D'AMATO. That is right.

Mr. COATS. Is that correct?

Mr. D'AMATO. Sure. That is correct. And what I am suggesting—in other words, in 1999, 1.4 million or 90 percent of the amount exported in 1996; and I hope we can get that amount. Hopefully, the State will be able to give us those numbers, and hopefully all States would be able to give us those numbers. And thereafter I would say we have an agreement, because we are then holding to—if you read in 2000, it says greater than 1.3 million tons or 90 percent of the amount exported in 1999. So we are, then, at least, taking it on a rational basis as it relates to how much was actually exported.

Mr. COATS. Well, let me say this to the Senator. First of all, I know that, given the 4 weeks we spent on the tobacco legislation, things are desperately behind. We are desperately behind the curve, and I know the Senate is anxious to move this appropriations bill forward as well as the agriculture appropriations, which I believe is coming next.

In the interest of expediting that schedule, I would be willing to accept that change offered by the Senator from New York if it would allow us to move forward, and with the understanding that we have a mutual agreement here to sit down and try to work this out.

Mr. D'AMATO. If there are any other—yes.

Mr. COATS. Given the fact that we do not have the answers to the question, I think the Senator and I—and we worked on this before—we could probably work out an acceptable arrangement which could help everybody. If we could get that assurance and move forward with it, I would be willing to make that change.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I am grateful to both Senators for trying to work this matter out. Senator LAUTENBERG—I have spoken to him on the telephone. His staff is here on the floor. He should be here momentarily. Hopefully, he will sign off on this after speaking to the two, the Senator from Indiana and the Senator from New York.

Mr. D'AMATO. Let me again suggest that with those two changes, the change of the 750,000 tons, which the Senator has already made in his amendment, and that of changing the 1999 agreement to reflect the amount exported in 1996, if the Senator would make that amendment, I am willing then to accept the amendment with the proviso and understanding and the gentlemen's agreement being that any other difficulties we will see if we can work out. And then we would rely on the committee chairman and the ranking member to help us and aid us in any further legislative language that might be needed.

Mr. COATS. Well, Mr. President, I certainly think we have the makings of an offer here, if we can get clearance from the rest—the Senator from New Jersey who helped in the past to reach this compromise. Obviously, nothing has changed. In fact, it probably changed a little marginally for the better for the Senator from New Jersey.

Mr. DOMENICI. Will the Senator yield?

Mr. COATS. Yes.

Mr. DOMENICI. I think if you want to work on that language—and I understand Senator LAUTENBERG is going to have to express his views; and he will be here momentarily. I wonder, I say to the Senator, if you might agree with me that Senator ALLARD from Colorado, who wants to speak to the bill—he is not going to offer an amendment—could speak for up to 10 minutes while you are working on this.

Mr. COATS. I have no objection.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank my colleagues. I want to thank the chairman for allowing me the time to speak for a few minutes on the bill.

I rise in support of Senate bill 2138 making an appropriation for energy and water development. I also want to make a few comments in regard to the Jeffords-Harkin amendment, which was adopted a little bit earlier on in the day, which was to restore funding to the renewable energy account in the 1999 energy and water appropriations bill we are now debating.

First of all, I thank the chairman for his diligence and hard work in working with my office on issues that are very important to the State of Colorado. Last year, you worked hard with our delegation, and are continuing to work with this delegation. I am comfortable with the legislation in the form that it is being reported out of the Senate.

I also recognize that there is a lot of work, or some work, that has to be done in conference committee and maybe a few issues yet that still have to be resolved as far as this particular bill is concerned.

Let me just say a little bit about the priorities that I have as somebody who represents Colorado and what I am thinking about as far as those priorities are concerned. First of all, research programs that will benefit from this funding should be a national priority. They are energy-type research,

and they are very, very important to the future of this country and having us not rely on foreign sources for our energy. It is well known that nearly half of all our Nation's oil is imported and that these imports account for 36 percent of the U.S. trade deficit.

American renewable energy and energy-efficient technologies help offset fuel imports. They build our domestic economy, and they strengthen our national security. Renewable power is an attractive energy source for the future. Alternative fuels such as propane, natural gas, ethanol, and methanol are clean fuels and are largely free of the pollutants regulated by the Clean Air Act. Renewable energy will provide clean and inexhaustible energy for millions of consumers.

Specifically, funding for renewable energy technology is important to my home State of Colorado. My State supports several energy-efficient pilot programs as well as established renewable energy sources. Some of the Nation's best wind and solar resources are in Colorado, and many of my constituents currently rely on renewable energy.

These are not far-fetched research projects that we are talking about. My State, for example, has many ranchers who are currently using Sun and wind energy in the management of their lands, providing for their energy needs.

Colorado is also the proud home of the National Renewable Energy Laboratory, referred to as NREL—the leading renewable energy research laboratory in the Nation, I might add. NREL conducts the needed research and develops and demonstrates sustainable-energy technologies. This lab relies heavily on the funding included in this amendment.

In addition, there are many entrepreneurs who are counting on funding from the Department of Energy to continue improving and increasing availability of renewable energy technology. There are 132 businesses in Colorado that specialize in renewable-energy-related products and services. Congress must continue to support research for renewable energy.

We also need to support the partnerships among the Government research entities, universities, and businesses. These cooperative efforts ensure that the research produces applicable results and furthers our goal of increasing our use of renewable energy resources.

In past years, I have sponsored environmental awareness seminars with Colorado State University to promote the use of alternate fuels. I am a former member of the House Renewable Energy Caucus, and I recently became the chairman of the newly formed bipartisan Senate Renewable and Energy Efficiency Caucus. I am a strong proponent of using renewable energy sources, and I believe we should continue to support that research, perfect the technology, and expand the use of renewable resources.

I thank my colleagues from Vermont and Delaware for their efforts to protect funding for renewable energy.

The next point I want to make is very, very important. While I do support the intent of the Jeffords-Roth amendment, I want to highlight one portion that I hope the conferees will change. One of the offsets included in the amendment is a 1.5 percent decrease in funding for cleanup of nondefense nuclear sites that are no longer utilized. One of those sites is the Rocky Flats Environmental Technology Site, which I will talk about further a little bit later on. My hope is to have this site cleaned up by 2006. In order to do that, it will require every dollar that has been appropriated for it in this bill. While in this instance I support the Roth-Harkin amendment, in the future I will have difficulty doing so if this same offset is included. In other words, the priority as far as my State is concerned, we spend every dollar to clean up Rocky Flats, but if we can do that, if we can put more money in renewable labs without taking away from the dollars, I can be supportive. I want it clear that my top priority is the cleanup of the Rocky Flats facility.

On that topic, Mr. President, I further thank Mr. DOMENICI and Mr. REID for their hard work on the energy and water appropriations legislation.

There is a lot of talk about surpluses nowadays. While I know that Mr. DOMENICI's subcommittee was not the beneficiary of any surplus, therefore it is a very pleasant surprise that he was able to find the funds necessary for an accelerated cleanup of Rocky Flats. In fact, I note that he provides $32 million over the administration's request to be sure that we remain as close to a 2006 closure date for Rocky Flats as possible.

As Mr. DOMENICI knows, this has been a very important issue for me since I came to the Senate last year. The basis of my concern is the proximity of Rocky Flats to over 2 million Coloradans. This makes the site one of the biggest potential threats to the Denver metro area. Rocky Flats is home to tons of plutonium that needs to be removed from Colorado. The funding in this bill will help achieve that end.

Furthermore, I note the dramatic upward swing in funding from fiscal year 1997 to date. In fiscal year 1997, $487 million was appropriated for Rocky Flats cleanup. In fiscal year 1998, that number jumped to $632 million. Today's bill proposes $657 million for cleanup. If we can hold this amount, we should be able to safeguard this material and close Rocky Flats in an expeditious manner.

Again, I close my remarks by complimenting the chairman on his hard work on both the budget and this appropriations bill and tell him how very much I appreciate his sensitivity to the problems we have in my State, particularly in regard to cleanup of Rocky Flats.

I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, let me say to Senator ALLARD and to the people of your State, because the community of interests have come together—and much of that is attributable to your leadership—we are now able to say to all of the country that we finally have one of these sites that must be cleaned up, that has a date, a date certain, that it will be cleaned up. Now, that is a rarity.

If the American people knew how long it takes us to clean up one of these sites because of a variety of reasons—some of which are not very good, yet we are stuck with them—they would be delighted, as I am, that we now have one that can be cleaned up and completed and we can say this is part of history in that area, and the surrounding communities are rid of this waste.

We saw that daylight, and we put in extra money. We are not apologetic in a tight budget year to say we put more in because we have to have some successes. We are busy spending our taxpayers dollars in projects of cleanup that we cannot even tell you will ever get cleaned up. Some of the things causing that we can't even change here on the floor of the Senate unless we go back and undo State law and have more hearings and look at contracts. Maybe that ought to be done, because there is a bit of irrationality regarding some of the projects of cleanup that now turn out to be situations where, when the project was in full bloom and operating to produce whatever it was producing for the nuclear deterrent system, they had fewer workers then than they have cleaning up. The Senator probably found that in his research as he familiarized himself with this particular dilemma.

I am very pleased that people like you went to the community and clearly indicated that there aren't a lot of options. If they don't want to let some of these things happen, it will all stay there. You told me that. You took the lead in convincing many people that those who didn't want one thing done, unless it was absolutely beyond perfection, with no possible risks involved for anyone or anything, that we wouldn't move a bit of this waste under those conditions. I laud you for that. I am glad we found money to put in to take care of it quickly.

Mr. ALLARD. If the Senator will yield for a moment, I will do everything in my power to make sure this money is spent wisely on that project. We are trying, through our office, to make sure it is well spent. My commitment to you is, we are working hard to

help you in overseeing that it is spent responsibly.

Again, we appreciate your sensitivity to the urgency of this matter. And like you, I hope that when we get this cleaned up, we can again clean up sites all over the country with similar situations. I appreciate the high priority you have given this particular site. I thank the chairman.

(Mr. SMITH of Oregon assumed the Chair.)

Mr. DOMENICI. Mr. President, we want to say to the leadership of the Senator's community there in his State, at least you understand we don't have a clean project that is going to go on forever. We are not past that stage in some areas. Some people think that paychecks by the hundreds of millions ought to be coming on for another 100 years. I don't know how we are going to be able to do that. Costs will keep going up. We have to find some satisfactory ways, with our intelligence, science, and innovation, to do some of these things better. That is what is happening there.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I wonder if the Senator from Michigan wants to state the purpose for going into morning business. Does he want 5 minutes as if in morning business, or 10 minutes?

Mr. ABRAHAM. Mr. President, I respond. Earlier today a resolution was introduced to commemorate the victory of the Detroit Red Wings. I would like to complete the action on that, and if we had 5, no more than 10 minutes, certainly this would be done.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senator from Michigan have up to 10 minutes for the purpose he just stated, and then, after that time has expired, we return to the pending business.

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

Mr. ABRAHAM. Mr. President, I thank the Senator from New Mexico.

CONGRATULATING THE DETROIT RED WINGS ON WINNING THE 1998 NATIONAL HOCKEY LEAGUE STANLEY CUP CHAMPIONSHIP

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 251, which was introduced earlier today by Senator LEVIN on his behalf and my behalf.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 251) to congratulate the Detroit Red Wings on winning the 1998 National Hockey League Stanley Cup Championship and proving themselves to be one of the best teams in NHL history.

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. ABRAHAM. Mr. President, I was initially going to seek to dispense with the reading of the resolution. But it sounds so good that I could not help to want to hear and allow our gallery to hear, as well, those words.

We in Michigan, and hockey fans, I think, throughout the world, are excited by the victory Tuesday night of the Detroit Red Wings in the Stanley Cup hockey finals.

Earlier today, Senator LEVIN, on his behalf and my own, introduced a resolution to commemorate that victory. I will not take the time of the Senate to read the entire text of that resolution again. But I would like to stand here today to acknowledge and express the pride that he and I and the Detroit Red Wings fans, not only in Michigan but everywhere else, have as the team on Tuesday won its second consecutive Stanley Cup hockey championship.

Last Friday, I had the opportunity to host the visit of the Stanley Cup itself to the Senate. We had the chance to share with our colleagues a little bit about the history of that most ancient trophy, which commemorates each year the winner of hockey's ultimate championship.

As I say, this is the second straight year that championship has been won by the Detroit Red Wings. It is also the second straight year that the Red Wings have won the championship with a four-game sweep, clearly an indication of the talent and the abilities of this team.

I think this year's victory was also special for a variety of other reasons that I would like to mention.

First, as evident throughout the season and certainly during the final days of the playoffs, this victory was special because of the presence in the players' spirits and minds, and then ultimately at the arena itself, of Vladimir Konstantinov, one of the stars of last year's championship who was innocently the victim of an auto accident and injury that made it impossible for him to play this year. We all wish him a speedy recovery, although he is still wheelchair bound.

It was a special win because the players dedicated the season to him and to the team trainer, Sergei Mnatsakanov, who likewise had been injured in that automobile accident.

It marked the eighth straight Stanley Cup victory for Scotty Bowman, and that ties him with his mentor, Toe Blake, for the most victories of this championship in the history of the NHL.

It was a special victory because team captain Steve Yzerman, in his 15th season, was awarded the Conn Smythe Trophy, which is a trophy that goes to the most valuable player in the playoffs. Those of us who have followed Red Wing hockey throughout that time know just how much he has meant not only to Detroit hockey but hockey in the NHL, one of the great players of all time.

We in Michigan refer to Detroit as "Hockeytown U.S.A." That has been our designation, but I think this victory, coupled with last year's victory, will make it clear, to everyone who may have had some doubts as to where the ultimate center of hockey spirit in this country is, that at least until they are dethroned, Detroit, MI, is that center and the Detroit Red Wings are the team that deserve the accolades they were able to achieve on Tuesday night.

Mr. President, I now ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD at the appropriate place as if read.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 251), with its preamble, reads as follows:

S. RES. 251

Whereas on June 16, 1998, the Detroit Red Wings defeated the Washington Capitals, 4–1, in Game 4 of the championship series;

Whereas this victory marks the second year in a row that the Red Wings won the Stanley Cup in a four game sweep;

Whereas the Stanley Cup took its first trip around the rink in the lap of Vladimir Konstantinov, the Red Wings defenseman who was seriously injured in an accident less than a week after Detroit won the Cup last year;

Whereas Vladi and his wife Irina, whose strength and courage are a source of pride and inspiration to our entire community are an exemplary Red Wings family and Vladi's battle is an inspiration to all Americans;

Whereas Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit and Michigan, have brought the Stanley Cup back to Detroit yet again;

Whereas the Red Wings, as one of the original six NHL teams, have always held a special place in the hearts of all Michiganders;

Whereas it was a profound source of pride for Detroit when the Wings brought the Cup back to Detroit in 1954 and 1955, the last time the Wings won consecutive NHL championships;

Whereas today, Detroit continues to provide Red Wings fans with hockey greatness and Detroit, otherwise known as "Hockeytown, U.S.A." is home to the most loyal fans in the world;

Whereas the Red Wings are indebted to Head Coach Scotty Bowman, who has brought the Red Wings to the playoffs 3 times in the last 4 years, and with this year's victory, has earned his eighth Stanley Cup victory, tying him with his mentor Toe

Blake for the most championships in league history;

Whereas the Wings are also lucky to have the phenomenal leadership of Team Captain Steve Yzerman, who in his fifteenth season in the NHL, received the Conn Smythe Trophy, given to the most valuable player in the NHL playoffs;

Whereas each one of the Red Wings will be remembered on the premier sports trophy, the Stanley Cup, including Slava Fetisov, Bob Rouse, Nick Lidstrom, Igor Larionov, Mathieu Dandenault, Slava Kozlov, Brendan Shanahan, Dmitri Mironov, Doug Brown, Kirk Maltby, Steve Yzerman, Martin Lapointe, Mike Knuble, Darren McCarty, Joe Kocur, Aaron Ward, Chris Osgood, Kevin Hodson, Kris Draper, Jamie Macoun, Brent Gilchrist, Anders Eriksson, Larry Murphy, Sergei Federov, and Tomas Holmstrom: Now, therefore, be it

Resolved, That the U.S. Senate congratulates the Detroit Red Wings on winning the 1998 National Hockey League Stanley Cup Championship.

Mr. ABRAHAM. Mr. President, I again thank the Senator from New Mexico for giving us the chance to do this today. I appreciate his indulgence. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, I call for the regular order.

AMENDMENT NO. 2713

The PRESIDING OFFICER. The regular order is amendment No. 2713.

Mr. DOMENICI. We have no objection to Senator INOUYE's amendment No. 2713.

The PRESIDING OFFICER. If there is no further debate on the amendment, without objection, the amendment is agreed to.

The amendment (No. 2713) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is it correct that the Coats amendment is now the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I ask Senator COATS what is his pleasure.

Mr. COATS. Mr. President, we are awaiting word from New Jersey, one of the States that is affected by this amendment, an exporting State. We are assured that we will have an answer one way or the other. It really rests in their hands. I think we have consensus to go forward, but there seems to be a problem with that State. I see the Senators from those States now. I think we will be able to give an answer very shortly.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if I can say to my friend, the manager of the bill—and I say this with some reluctance because I have such great respect for the junior Senator from Indiana—I have received calls from Connecticut, Montana, and there are others——

Mr. DOMENICI. Illinois.

Mr. REID. Illinois. I think the New Jersey problem is not the problem. There are many problems related to this. This is not going to go away. I wish I had better news, but we have a number of States that are very concerned about this.

If I can get the attention of the Senator from Indiana, I do not think the Senator from Indiana heard what I said. I say this with the greatest respect for my friend from Indiana, we have not only received calls from the New Jersey delegation, but have received calls from Illinois, Montana, Connecticut. Some people may not have a concern with this bill but have one of their own dealing with the transportation of waste, trash. I just have told them to stay in their offices until we see if we can get this worked out. I am really concerned about this kind of bogging things down, for lack of a better description.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I had a discussion earlier with the Senator from New Mexico. I had a discussion with the chairman of the Appropriations Committee. I told the Senator from New Mexico that it is not my intention to bog down this bill. I understand the dilemma the Senate is in due to the 4 weeks we spent on the tobacco bill without resolution. We have appropriations bills that need to move.

I assured the Senator from New Mexico that it was not my intent to do this. I was operating on the assumption that the agreement that we so torturously reached in 1996, that received the unanimous support of every Senator, including the Senators from New York and the Senators from New Jersey, including the Senators from Illinois and exporting States, after days and weeks and months of negotiations, that that would still be operative.

Now it seems that everything has changed. I am not going to insist on my rights to allow this amendment to tie up this appropriations bill. I think there is important work in the Senate that needs to be done. I will just say to my fellow Senators, this is an issue that is not going to go away. I said it in 1990. I have said it every year since. It has passed the Senate five times, sometimes by unanimous consent, sometimes by 94 votes.

Importing States are at a tremendous disadvantage, and they have no say in the ways in which they can manage their own environmental destiny as it regards municipal solid waste. Exporting States can continue to make promises about what they are going to do. The fact of the matter is they apparently are not delivering on those promises. We were assured time after time that if they just bought a little more time, they would achieve the capacity necessary to deal with their own waste, but they found it convenient to ship it somewhere else so that somebody else can deal with their problems.

It appears now that the evidence is in that they are not doing anything to deal with their own waste, and that puts those of us who are importing States at a great disadvantage. By the way, that is 31 States.

We agreed we are going to continue to work on this. We will continue to work on this. We will attempt to achieve another consensus so that we can move this legislation, but, in the meantime, I think it is important that we go ahead with other work in the Senate that has been planned.

With that in mind, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2716, as modified) was withdrawn.

Mr. DOMENICI. Mr. President, I thank the Senator from Indiana, the very distinguished Senator from Indiana. I thank him personally for accommodating us today. I think he does make a point, and maybe he should not give up, because it seems to me, with a little bit of negotiation—this catches some people by surprise—but we have cleared that very bill—well, it was an amendment when we cleared it. We had taken it to the House and had trouble in the House with it. Clearly, we haven't had problems in the Senate. The situation is such that somebody can talk on it and not let us vote. The distinguished Senator from Indiana agrees with the Senator from New Mexico—and I thank him for that—that we ought to proceed and finish this bill. That is what he has done. I very much appreciate it, and the Senate appreciates it.

Mr. REID. Mr. President, if I can also elaborate on what my friend, the manager of the bill, has said, there is no Senator in this body who has been more diligent on an issue than has the Senator from Indiana been on this

issue of transportation of waste. He has rendered a great service not only to the people of the State of Indiana, but this country. I join in his appreciation for the Senator from Indiana allowing this bill to move forward.

Mr. DOMENICI. Mr. President, we have one amendment that is working its way through the clearance process, but it has not been cleared yet. Having said that, it is my understanding that there is no amendment pending at this point, is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENTS NOS. 2717 THROUGH 2725, EN BLOC

Mr. DOMENICI. Mr. President, I send to the desk nine amendments and ask that they be considered en bloc.

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

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments numbered 2717 to 2725, en bloc.

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

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

The amendments are as follows:

AMENDMENT NO. 2717

(Purpose: To set aside funding for the Omaha District of the Army Corps of Engineers to pay certain claims)

On page 9, line 3, after "expended," insert "of which $460,000 may be made available for the Omaha District to pay pending takings claims for flooding of property adjacent to the Missouri River caused by actions taken by the Army Corps of Engineers, of which $2,540,000 shall be available for the project on the Missouri River between Fort Peck Dam and Gavins Point in South Dakota and Montana, under section 9(f) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (102 Stat. 4031)".

AMENDMENT NO. 2718

On page 8, line 7, add the following before the period:

": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $500,000 of funds appropriated herein to continue construction of the Joseph G. Minish Passaic River waterfront park and historic area, New Jersey project".

AMENDMENT NO. 2719

On page 8, line 9, before the period at the end insert ": *Provided further*, That of amounts made available by this Act for project modifications for improvement of the environment under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), $500,000 may be made available for demonstration of sediment remediation technology under section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note: 104 Stat. 4644)".

AMENDMENT NO. 2720

On page 27, line 21, delete "." and insert in lieu thereof the following:

": *Provided further*, That of the amount appropriated herein $30,000,000 is to be available for the Initiatives for Proliferation Prevention program: *Provided further*, That of the amount appropriated herein $30,000,000 shall be available for the purpose of implementing the 'nuclear cities' initiative pursuant to the discussions of March 1998 between the Vice President of the United States and the Prime Minister of the Russian Federation and between the U.S. Secretary of Energy and the Minister of Atomic Energy of the Russian Federation."

AMENDMENT NO. 2721

On page 8, line 9, insert the following before the period:

": *Provided further*, That the Secretary of the Army may make available $100,000 for the Belle Isle Shoreline Erosion Protection, Michigan project; $100,000 for the Riverfront Towers to Renaissance Center Shoreline Protection, Michigan project; and $200,000 for the Great Lakes Basin, Sea Lamprey Control, Section 206, Michigan, project".

AMENDMENT NO. 2722

(Purpose: To provide funding for the isotope ratio capabilities at the University of Nevada Las Vegas)

On page 22, line 19, insert the following before the period:

": *Provided further*, That $500,000 of the unobligated balances may be applied to the identification of trace element isotopes in environmental samples at the University of Nevada-Las Vegas".

AMENDMENT NO. 2723

On page 3, line 8, insert the following before the period:

": *Provided further*, That the Secretary of the Army may make available $500,000 for the Atlanta Watershed, Atlanta, Georgia project".

AMENDMENT NO. 2724

(Purpose: To set aside funding for support of the National Contaminated Sediment Task Force)

On page 10, line 7, before the period insert ", of which $250,000 may be made available to support the National Contaminated Sediment Task Force established by section 502 of the Water Resources Development Act of 1992 (33 U.S.C. 1271 note; Public Law 102–580)".

AMENDMENT NO. 2725

On page 22, line 14, strike: "2,669,560,000" and replace it with "2,676,560,000".

Mr. DOMENICI. Mr. President, the amendments are as follows: Senator DASCHLE, flood damage claims; Senators LEVIN and GLENN, a section 1135 project; Senators BIDEN and DOMENICI, an IPP and nuclear cities amendment; Senator LEVIN, Michigan continuing authorities projects; Senator REID, trace element isotopes; Senator CLELAND, Atlanta watershed project; Senator LEVIN, contaminated sediment task force; and Senators DOMENICI-REID on science.

Are these cleared on your side, I ask the Senator?

Mr. REID. No objection.

Mr. DOMENICI. No objection on your side?

Mr. REID. No objection.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendments, en bloc.

Without objection, the amendments are agreed to.

The amendments (Nos. 2717 through 2725), en bloc, were agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

Mr. BIDEN. Mr. President, I thank the distinguished Senators from New Mexico and Nevada for including an idea that I proposed in the managers' amendment to the energy and water appropriations bill. I am confident that together we will lessen the risk that former Soviet scientists will help any rogue state to build nuclear, chemical or biological weapons.

This amendment does two things. First, it earmarks an additional $15 million for the Department of Energy's Initiative for Proliferation Prevention, or IPP, program which was unfairly cut from the President's budget request. And second, it earmarks start-up funds for the "nuclear cities" initiative that was endorsed by both Vice President AL GORE and Russian Prime Minister Chernomyrdin.

Initiatives for Proliferation Prevention, or IPP, is a program that creates employment opportunities for former Soviet arms specialists by helping them develop their ideas for commercially viable goods and services. As an idea reaches fruition, IPP brings the arms specialists into joint ventures with outside investors, who gradually take over the funding. For example, thanks to IPP, a U.S. firm is working with Ukrainian scientists to develop and market a device for decontaminating liquids. This device will enable the Ukrainian dairy industry to produce fresh milk despite the lingering effects of the Chernobyl reactor meltdown.

IPP had a slow start. It is hard to come up with really viable commercial ventures, to find investors, and to make sure they can invest safely.

The executive branch thought that IPP had unspent funds from past years. So they cut its budget by 50 percent—down from $30 million to $15 million.

But IPP has begun to take off. As of this April, 15 projects had achieved completely commercial funding and 77 had found major private cofunding. As a result, IPP does not have unobligated funds lying around.

Now is not the time to cut the IPP program. Rather, we should encourage

IPP and the many weapons specialists in the former Soviet Union who are searching for new careers in the civilian economy, by maintaining IPP's funding stream.

The "nuclear cities" initiative is an effort to improve employment opportunities for Russian personnel from their nuclear weapons labs and manufacturing facilities. This initiative, too, will focus on finding commercially viable projects and bringing in outside investors. The challenge is to find projects that can work at these somewhat isolated cities, which are more or less the Russian equivalent of Los Alamos.

When we fun the "nuclear cities" initiative, we get two benefits. First, Russia's Minister of Atomic Energy has announced that they will downsize their nuclear weapons establishment. And second, by providing civilian job opportunities for the personnel who are let go, we will help protect against Russian weapons specialists going off to work for programs in states like Iran, Iraq or Libya.

The "nuclear cities" initiative was developed by a group of U.S. and Russian specialists, and was endorsed at the last meeting of the Gore-Chernomyrdin commission. Later this spring, Energy Secretary Peña and Russian Atomic Energy Minister Adamov also endorsed it.

According to the group that developed this new initiative, it can usefully spend up to $30 million in fiscal year 1999. I don't know how much the executive branch will want to devote to "nuclear cities," but my amendment gives them the opportunity to fund a realistic program.

By earmarking funds both for the "nuclear cities" initiative and for the IPP program, moreover, we make sure that the price of the new initiative will not be the death an existing program. If there is clear overlap between the IPP program and the "nuclear cities" initiative, such overlap should be eliminated. But I have the distinct impression that there are excellent IPP projects that will have nothing to do with Russia's "nuclear cities," and such projects should not be sacrificed.

Once again, I thank and congratulate the senior Senator from New Mexico and the senior Senator from Nevada. They have given us a fine example of bipartisan cooperation and effectiveness.

Mr. BYRD. Mr. President, I rise today in support of the Fiscal Year 1999 Energy and Water Development appropriations bill. This is a bill that addresses many of our Nation's most critical water infrastructure requirements, as well as important energy research functions, and management of our nuclear waste and environmental remediation programs. This bill is also a component of our national security portfolio, due to the atomic weapons production programs of the Department of Energy that are funded in this bill.

In approving the recommendations of the subcommittee, the committee has reported a bill that does an excellent job of balancing the many competing demands which fall within the jurisdiction of the Energy and Water Development Subcommittee. I wish to commend the subcommittee chairman, Senator DOMENICI, for all his hard work in crafting the bill brought before the Senate, together with his very able counterpart, Senator REID. While both of these Senators come from the arid west, where the water management issues are very different from the challenges facing other regions of the country, they have been very responsible in trying to maintain critical investments in flood control and navigation and irrigation, while also ensuring that our energy research and nuclear waste management and weapons production responsibilities are met.

Their task was made particularly difficult this year by the disgraceful budget request for Fiscal Year 1999 put forward by the administration for the Army Corps of Engineers. Despite strong support for an aggressive Corps construction program from both sides of the aisle and all regions of the country, the administration proposed a significant reduction in spending for Corps construction—some $689 million, or 47 percent, below last year's funding level.

This budget gap created a huge hole that needed to be filled, and I commend our committee chairman, Senator STEVENS, for his sensitivity to the challenges presented to the Energy and Water Development Subcommittee by the President's request. Senator STEVENS knows all too well the value and need for critical infrastructure investments that will help communities enhance their economic opportunity. I was pleased to join with the chairman in recommending a 302(b) allocation to the Energy and Water Development Subcommittee which was substantially above the President's request and above a freeze for the non-defense discretionary portion. Nonetheless, the requests for funding far exceeded the subcommittee's allocation.

Nearly every state had ongoing water projects that the Corps expressed a capability of being able to execute at a program level far in excess of the President's request. So to try and maintain ongoing projects, as well as to protect investments, funding was added to many of these projects. The costs associated with the administration's short-sighted proposal were considerable. Not only would there have been increased costs due to the additional time it would have taken to complete projects, but there would also have been considerable contract termination costs associated with ending or reducing work that had been initiated recently.

So I commend the subcommittee members for their fine work. Their responsiveness to local concerns will mean a great deal to the communities in my state that were on the short end of the administration's budget. In places like Marmet, the Greenbrier Basin, and the Tug Fork Valley, where people have been waiting years for assistance from the Federal government to improve upon flood control and enhance navigation channels that feed our economy, this bill will be of great assistance. I have seen the mud, muck, and misery that accompany flooding when the waters rise in the creeks and streams and rivers that flow through the mountains of West Virginia. Some criticize these types of projects. I contend that they are critical to improving the lives and enhancing the safety of our constituents.

Mr. President, as is true with most appropriations bills, not every Senator has 100 percent of his or her priorities addressed fully. That is the very essence of compromise and balance, which are at the center of what it takes to produce an acceptable, and signable, appropriations bill. The President, in gutting the Corps' construction program, proposed significant increases to programs favored by the administration. But every Senator should be clear that, to pay for those increases, the President proposed reductions in funding requested for flood protection and other water infrastructure development. I commend Senator DOMENICI and Senator REID for trying to maintain stability across the multitude of programs funded in this bill.

Finally, I wish to acknowledge the very fine work done on this appropriations bill by the majority and minority staff of the Energy and Water Development Subcommittee—Alex Flint, David Gwaltney, Greg Daines, Liz Blevins, Lashawnda Leftwich, and Sue Masica. There are many details associated with all of the water projects and energy research items in this bill, and this team does an excellent job of serving not only Senators DOMENICI and REID, but also all other Senators.

Mr. GLENN. Mr. President, I rise today to make a few comments concerning S. 2138, the Fiscal Year 1999 Energy and Water Development Appropriation bill.

The West Columbus Floodwall Project is an extremely important infrastructure project currently under development by the City of Columbus and the Army Corps of Engineers. Once completed this project will protect over 2,800 acres of urban development, and approximately 6,200 homes and businesses. Construction of this $118 million project was initiated in 1993 and was on schedule and budget for completion in 2002.

The fiscal year 1999 civil works budget request for the U.S. Army Corps of Engineers provided only $1.8 million for

continued construction of this important project. The Committee increased the fiscal year 1999 funding to a total $7.5 million. Although I am grateful for the Committee's action, I am concerned because this project requires $16 million to keep it on track and moving forward.

Mr. President, this project is unlike a lot of other flood projects in that it does not provide vitally needed flood protection for West Columbus until it is fully completed. Funding for this project at less than $16 million could delay it for up to one year and this area will continue to be exposed to an increased potential for flood damages of up to $455 million. In addition, the homeowners and businesses in this area will face continued zoning restrictions, and development of 2800 acres will be delayed.

The city of Columbus has been damaged in the past by severe flooding of the Scioto River, which runs through the heart of its downtown. In 1913, 1937 and 1959, the city was devastated by flood disasters resulting in millions of dollars in damage to commercial and residential property, destruction of homes and businesses, and the loss of many lives. In 1990 and 1992, the city again experienced serious flood scares. If the West Columbus project were in place during previous recent flood events, damages would have been prevented.

Mr. President, during the December 1990 rainfall and flood event, inundation and localized flood damages occurred in the Phase 1B/McKinley Avenue area. The Scioto River rose to a flood level approaching a 20-year frequency. If the project features had been in place at that time, the interior runoff would have drained to the stormwater pump station ST-8 and would have been pumped out of the interior. Instead, an existing storm sewer flap gate was held shut by the high Scioto River flood stage, preventing the interior runoff from draining to the river. Adjacent businesses were flooded until the Scioto River receded to a level that permitted the flap gate to open and allow interior runoff to drain to the river.

During the July 1992 storm, rainfall in excess of 4 inches fell over the interior area along with a moderate rise in the Scioto River. An existing storm sewer flap gate was held shut and interior runoff could not drain to the river. If the proposed Dodge Park stormwater pump station had been available, it could have pumped excess runoff to the river, thus preventing flood damages that occurred along Rich Street.

Mr. President, I understand that sufficient funding was not available for the many critically needed flood protection projects contained in this bill. For this reason I will not offer an amendment, however, I thought it was important to express my concerns and address the potential impacts of not funding this project at the required level of $16 million. I am pleased that the House was able to fully fund this project in their bill and it is my hope that during Conference, the Senate will recede to the House's position and provide $16 million for the West Columbus Floodwall Project.

Thank you, Mr. President.

Mr. LIEBERMAN. Mr. President, I rise to express my concern about the portion of this bill dealing with the Nuclear Regulatory Commission, and particularly the Committee report. While I appreciate that Senators DOMENICI and REID have made very significant changes to an earlier version of the report, I remain troubled.

Let me say first that I am a supporter of nuclear energy. I believe it can be part of the solution to solving the world's energy, environment and global warming problems. But in order for there to be a future for this industry, it is critical for the public to maintain confidence in the industry—a confidence that must be supported by a strong, competent and effective Nuclear Regulatory Commission.

I do not believe that the current NRC over-regulates, inspects too much, enforces too much or has adopted an overly restrictive body of regulations. I base this conclusion on the extensive oversight I conducted as chairman during the 103rd Congress of the Clean Air and Nuclear Regulation subcommittee of the Environment and Public Works Committee; the oversight work I have conducted during the last three years as a member of the Environment Committee, particularly growing out of my concern about the shutdown of Connecticut's nuclear power plants; and two extensive reports prepared for me by the General Accounting Office.

In fact, I believe that as a result of new safety initiatives undertaken by NRC Chairman Jackson, such as: limiting inappropriate use of enforcement discretion; requiring utilities to verify whether they are operating in accordance with their design basis; undertaking a review of NRC oversight of changes made by utilities without prior NRC approval; improving the inspection process;, increased attention to use of quantitative performance indicators; and reforms of the senior management oversight process, the NRC has finally moved toward regaining some of the public confidence which is so important. Also critical to restoring this confidence has been Chairman Jackson's openness and responsiveness to the public, including whistleblowers. Many of these initiatives came in response to a very unfortunate situation in Connecticut, where the nuclear power plants were shut down and put on the NRC Watch List of most troubled plants.

I appreciate that the Appropriations Committee believes that there should be an in-depth review of the NRC. As a member of the Senate Environment Committee with authorization oversight responsibilities, I have been urging the Committee to conduct hearings on the NRC since the start of the Congress. In particular, I have urged the Committee to hold a hearing to examine the issues raised in two General Accounting Office reports : one prepared for Senator BIDEN and me, Nuclear Regulation: Preventing Problem Plants Requires More Effective NRC Action, and one prepared for Congressman DINGELL and me on whistleblower protections.

The GAO raised serious concerns about instances in the past in which the NRC has neither taken aggressive enforcement action nor held nuclear plant licensees accountable for correcting their problems on a timely basis. The GAO criticized the NRC for problems in the inspection process, such as not including timetables for the completion of corrective action and for not evaluating the competency of the licensees' plant managers as part of the on-going inspection process. In addition, the GAO found that the senior management meeting, designed to focus attention on those plants with declining safety performance, was not serving its goal of being an early warning tool.

To her credit, Chairman Jackson has responded to many of these GAO recommendations positively and swiftly. Nevertheless, oversight hearings are needed to evaluate the NRC's responses.

Finally, although I appreciate that the Committee increased the NRC's funding levels from the subcommittee's approach and eliminated any directions to cut nuclear reactor safety, I am still concerned that the bill includes $17.3 million less in funding than the NRC's budget request. I think a more prudent approach would be to have a detailed discussion of the NRC's proposed initiatives in the authorizing Environment Committee to avoid any negative impact on the NRC's ability to maintain a strong, healthy regulatory program for nuclear power plants or to limit any new initiatives that the NRC believes are important. In the 103rd Congress, I was pleased that we were able to report an authorizing bill for the NRC, but unfortunately it did not become law. We need to move forward again with such a bill.

TOOELE CITY WASTEWATER TREATMENT AND REUSE PROJECT

Mr. BENNETT. Mr. President, I would like to ask the distinguished Senator from New Mexico, the Chairman of the Energy and Water Subcommittee, a question related to a project in my State. Am I correct in stating that the bill before the Senate today contains $3 million in funding for the Tooele City Wastewater Treatment and Reuse Project?

Mr. DOMENICI. The Senator is correct.

Mr. BENNETT. Mr. President, I appreciate the Senator from New Mexico's support for this project. I have recently become aware of a problem with this project related to the Bureau of Reclamation's interpretation of the project's authorization which I hope we can clarify. As the Senator knows, I am a strong advocate for the concept of water recycling and reuse. In arid States such as ours we simply have to make every gallon of available water stretch as far as we can. It is for that reason that I sponsored the legislation that eventually became Public Law 104–266. The passage of that legislation expanded the Bureau of Reclamation's water recycling program and authorized the Tooele City project. Under this program the Bureau is authorized to contribute up to twenty-five percent of the cost of planning, designing and constructing water recycling and reuse projects.

The Tooele Wastewater Treatment and Reuse project is designed to reclaim 2.25 million gallons of effluent daily and utilized the reclaimed water for a variety of non-potable uses permitted by Utah State law. Unlike some other States, Utah permits the utilization of water treated to secondary—as opposed to advanced secondary or tertiary—standards for certain non-potable uses. In formulating the Tooele project, the City has always anticipated the utilization of secondary effluent in conformance with State law. Now the Bureau of Reclamation has informed the City that it will not provide funds appropriated by Congress for that portion of the Tooele project that provides secondary treatment. I have searched the authorizations for the Title XVI program and the Tooele project high and low and can not find a statutory basis for the Bureau's position. Had Congress wished to limit the use of title XVI funds in this manner, it certainly could have done so. It did not.

Mr. President, I remain hopeful that we can resolve this matter before this bill goes to Conference. However, in the event that we are not successful, I would like to ask the Chairman to entertain the possibility of Conference Report language, if necessary, to clarify this matter.

Mr. DOMENICI. I appreciate the Senator from Utah's concerns. I would be happy to work with him to resolve this issue.

RODEO LAKE

Mr. GORTON. Mr. President, I rise for a brief colloquy with the manager of the bill. I would like to thank the chairman for his generous work to fund the Rodeo Lake project near Othello, Washington. This project will help alleviate a serious flooding problem in Central Washington state. There has been some confusion, however, regarding the Corps of Engineers' involvement in the project. I understand that, because of the water at Rodeo Lake directly affects projects maintained by the Bureau of Reclamation, the committee intends for the Corps to coordinate its efforts with the Bureau of Reclamation. Is my description of the committee's intentions correct?

Mr. DOMENICI. The Senator is correct.

Mr. GORTON. I thank the Chairman for the clarification and for the hard work on this bill.

DEVILS LAKE, NORTH DAKOTA

Mr. CHAFEE. Mr. President, page 44 of the committee report accompanying S. 2138, the fiscal 1999 Energy and Water Development Appropriation bill, includes a section on funding provided in the bill for construction of a flood control outlet at Devils Lake, North Dakota. At the end of the short section, the committee report states that, "[i]t is expected that such circumstances would also be such that granting of a waiver under the emergency provision of the National Environmental Policy Act would be appropriate and that the provision of the 1909 Boundary Waters Treaty would be met."

I am trying to understand how this report language corresponds with language in the bill for Devils Lake. As reported by the committee, pages 6 and 7 of the bill lay out a detailed set of rigorous criteria that must be met before any funds can be obligated by the Secretary for actual construction of the outlet. Two of those criteria, full compliance with the National Environmental Policy Act (NEPA) and the 1909 Boundary Waters Treaty seem to be preempted by the committee in this report. I ask the distinguished chairman of the Energy and Water Development Subcommittee, Senator DOMENICI, if the committee report language in any way supercedes the bill language? Moreover, is the committee attempting to provide a waiver or some form of relief under NEPA or the Boundary Waters Treaty?

Mr. DOMENICI. I thank the Senator from Rhode Island for his continued interest and involvement in the Devils Lake matter. The answer to both of the Senator's questions is "no." The bill language that you cited, which was originally negotiated by the two of us, Senator BOND and our colleagues from North Dakota last year, would be fully applicable. The committee report does not waive NEPA, the Boundary Waters Treaty or any of the other conditions found in the bill language. In summary, the Executive Branch would need to fulfill the economic and technical justifications, the reporting and budgeting requirements, as well as the NEPA and Boundary Waters Treaty terms, before any of the appropriated funds can be expended for outlet construction. The report language signals our expectation that the Executive Branch would make full use of the emergency provision currently available under NEPA and that all steps would be taken to expeditiously fulfill the requirements of the Boundary Waters Treaty in the event that rising lake levels warrant accelerated construction of the outlet.

Mr. CHAFEE. I appreciate my colleague's clarification. I chaired a hearing on Devils Lake before the Committee on Environment and Public Works late last year and am committed to addressing the terrible flooding problems experienced there. However, I am convinced that the people of North Dakota, Minnesota, Canada, and the U.S. taxpayers will all be served more effectively if we go about this project in the right way. To do that, we need the appropriate reviews, studies and justifications by the Army Corps of Engineers, State Department and others. In that context, Mr. President, I ask unanimous consent to include in the CONGRESSIONAL RECORD a January 28, 1998, Army Corps memorandum, signed by the then-Acting Assistant Secretary John H. Zirschky, that details the agency's policy on NEPA compliance and the proposed outlet at Devils Lake. I ask unanimous consent that the memorandum be printed in the RECORD.

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

DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY, CIVIL WORKS,

Washington, DC, January 28, 1998.

MEMORANDUM FOR THE DIRECTOR OF CIVIL WORKS

Subject: National Environmental Policy Act Compliance, Devils Lake Outlet, North Dakota

The Corps has been working hard to solve the flooding problems at Devils Lake. The St. Paul District has been raising the levees at the city of Devils Lake and the design of an emergency outlet is well underway. I commend your staff, Mississippi Valley Division and the St. Paul District for their accomplishments to date.

A statutory requirement for constructing an outlet from Devils Lake is compliance with the National Environmental Policy Act (NEPA). On December 10, 1997, the Corps briefed my staff and a representative of the Office of Management and Budget (OMB) on the proposal for compliance with NEPA. On December 19, 1997, my staff briefed senior staff of the OMB and the White House Council on Environmental Quality (CEQ) on the proposal.

The purpose of the December 19, 1997 meeting was to discuss the St. Paul District's "expedited" schedule for NEPA compliance. That schedule calls for constructing the outlet before the NEPA process is completed. This is an exception that would require a waiver from the normal NEPA process. While the flooding problem at Devils Lake is an emergency, and while adoption of a NEPA compliance process completed following construction may be necessary at some point in time, the decision to carry out a NEPA process as outlined in the District's "expedited"

schedule is considered premature. Supporting a waiver at this time is difficult since we have not yet decided to construct the outlet nor have we completed its design. The controversial nature of the outlet project, and the extent of other ongoing activities by the Corps and others to mitigate for the flooding were also factors in this decision.

It is critical that the Corps continues to keep this project as a high priority. We should proceed with the planning, NEPA compliance, and design of the outlet as quickly as possible. The studies and report being prepared to comply with the Fiscal Year 1998 Energy and Water Development Appropriations Act should also be expeditiously completed. To ensure that the report complies with the congressional directives, it should be subjected to technical and policy reviews before submitted to this office. We should also continue to budget for the outlet.

It is also very important that the NEPA process complies fully with the July 1, 1997, memorandum from the CEQ on transboundary impacts of the outlet project. Likewise, the NEPA process should be undertaken so that it will give us a sound basis for consultation with the International Joint Commission, and with Canada under the "Boundary Waters Treaty of 1909."

At this time, we should not plan to use a NEPA process that assumes that we construct the outlet before the NEPA process is completed. Our objective is to comply fully with the NEPA by completing the Environmental Impact Statement and Record of Decision using a normal NEPA process. In this regard, on January 12 our staffs developed guidance that allowed the St. Paul District to initiate the NEPA scoping process on January 14, 1998. The District should revise the schedule they proposed for the "normal" NEPA process, and identify opportunities to complete this work by December 1999. While I understand that the coordination phase of the NEPA process may be time dependent, I believe that ways to shorten the data collection and evaluation phases can be found to shorten the current forty month schedule. Regarding data collection and evaluations, these activities should be programmed in a way that will provide us with increasingly greater levels of detail, so that we can decide, if necessary, to start the outlet at anytime using an emergency NEPA process. Unless an emergency waiver is obtained sooner, we should be in a position to start construction by Spring 2000.

The enclosed paper was prepared to help explain the "Action Plan." This plan will allow the Corps to meet its legal obligations, make more informed decisions by maximizing the use of new information on both lake level predictions and environmental impacts, and stay positioned to start construction on the outlet when necessary. I ask that HQUSACE provide the leadership necessary to achieve these objectives.

JOHN H. ZIRSCHKY,
Acting Assistant Secretary of the Army (Civil Works).

Enclosure.

DEVILS LAKE EMERGENCY OUTLET, NORTH DAKOTA NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE ACTION PLAN

National Environmental Policy Act (NEPA) compliance is an integral part of the decision making process for the Devils Lake outlet. To be able to construct the outlet as soon as possible—yet comply fully with NEPA—the Corps will use the following principles:

PRINCIPLES

Reducing flooding at Devils Lake is a high priority for the Administration.

Engineering and design work on the outlet will proceed on schedule, allowing the start of construction, if necessary, by May 1999.[1]

A decision to start construction on the outlet will be based on the best available information and be legally defensible.

A decision to start construction will comply with the Fiscal Year 1998 Energy and Water Development Appropriations Act, and other laws and treaties; and

National Environmental Policy Act compliance will proceed on a fast track.

ACTION PLAN

From an engineering standpoint, the Corps St. Paul District believes it can be in a position to start construction of the outlet by May 1999. To meet this date, the design of the outlet should be completed by August 1998 and pipe should be ordered in October 1998. By August 1998, the Project Cooperation Agreement should be ready to be executed with the State of North Dakota. The State could then be ready to acquire lands needed for the project. The report necessary to comply with the Fiscal Year 1998 Energy and Water Development Appropriations Act is scheduled to be prepared, reviewed and approved in time to be submitted to Congress by August 1998. Plans and specifications are to be completed by March 1999. The Corps would continue to budget for funds for design and construction of the outlet.

Regarding the NEPA compliance, several options were considered, including starting construction before the NEPA process is completed. Starting construction before the NEPA process is completed requires a Council of Environmental Quality waiver from the normal NEPA compliance process under the emergency provision of NEPA. Such waivers are unusual and require substantial justification. Without such justification the legal risk would be great given the diverse interest and positions on the outlet. In view of the stipulations in the Fiscal Year 1998 Energy and Water Development Appropriations Act that must be met before construction can be started and that the design of the outlet is not yet complete, we believe that it is premature to make the waiver decision at this time and that we should proceed with the NEPA process. However, in view of the lake level trends of the past few years at Devils Lake, the NEPA review would be expedited, and NEPA compliance activities would be organized in a tiered fashion that will maximize its utility at any given time regarding a decision to start construction on the outlet through the emergency NEPA waiver. This approach should not result in an unacceptable slow down of outlet construction, if necessary, since the engineering and design work will be completed on schedule.

The St. Paul District initiated the formal NEPA process on October 21, 1997, and an initial scoping meeting was held on January 14, 1998. unless a waiver from NEPA is needed sooner, the goal is to complete the NEPA process by December 1999*. As noted above, NEPA data collections, evaluations, impact assessments, and coordination activities should be programed to be concurrent, at minimum allowed times, and at increasingly greater degrees of detail, so that we can save time and make more informed and supportable decisions regarding carrying out the outlet under an emergency NEPA process, if necessary. As an example, the question of the need to start construction under an emergency NEPA process can be revisited after the 1998 runoff predictions are released and the Corps has completed the report required by the Fiscal Year 1998 Energy and Water Development Appropriations Act.

In summary, this action plan allows the Corps to meet its legal obligations, make more informed decisions by maximizing the use of new information on both lake level predictions and environmental impacts, and stay positioned to start construction on the outlet when necessary.

OASA (CW) POC:

MICHAEL L. DAVIS,
Deputy Assistant Secretary of the Army (Policy and Legislation).

JAMES J. SMYTH,
Assistant for Water Resources Development.

[1] Unless otherwise stated, completion and submission dates presented in this paper are those developed by the St. Paul District of the Corps of Engineers. New dates are noted by "*" after the date.

ASSATEAGUE ISLAND

Mr. SARBANES. Mr. President, I would like to engage the distinguished Chairman of the Subcommittee in a colloquy concerning funding for the restoration of Assateague Island National Seashore.

I am deeply concerned that the Committee was not able to provide funding for so-called "new start" construction projects of the Army Corps of Engineers. I understand that the House Committee has also adopted a no new starts policy. The Corps of Engineers was scheduled to initiate an authorized and approved mitigation project for the North End of Assateague Island National Seashore in Fiscal 1999 and without funding, it appears that this project will have to be postponsed. This is a particular problem because the northern end of Assateague was hit very hard by two northeastern storms which slammed the mid-Atlantic coast this past February causing severe erosion and overwash conditions. In its current condition, the seashore is extremely vulnerable to breaching should another storm hit the coast. The integrity of the National Seashore and the area's coastal bays are at risk.

Fortunately, the Corps will be able to make emergency repairs to the storm-damaged section under the authority of Public Law 84–99, providing some additional protection to the island over its current condition. But it would be far better if the approved restoration project could be initiated and completed as soon as possible.

I recognize the difficult constraints that the Committee faced in crafting this bill but, given the critical nature of this project, I ask if the Chairman would be willing to work with me and Senator MIKULSKI in the Conference Committee to address Assateague's needs should additional funding become available.

Mr. DOMENICI. The Committee understands the importance of this project and will work in Conference to see what develops.

Ms. MIKULSKI. I thank the Chairman for his consideration of this

project. Assateague is one of the most important restoration projects in Maryland. The environmental, economic and ecological value of the Assateague Seashore is extraordinary. It is not just a Maryland priority, it is a national priority.

Mr. SARBANES. I thank the Chairman for these assurances.

TRANSFER OF THE ST. GEORGES BRIDGE

Mr. BIDEN. Mr. President, I am wondering if the Ranking Member of the Subcommittee will engage in a colloquy with me regarding the St. Georges Bridge in my State of Delaware.

Mr. REID. I would be pleased to yield to my colleague from Delaware.

Mr. BIDEN. I thank my friend. Mr. President, recently in the newly passed highway bill, TEA-21, the Secretary of the Army was directed to transfer the right, title and interest of the St. Georges Bridge in Delaware, to the State of Delaware. The transfer is necessary to facilitate a retransfer of the bridge to a private entity for the purposes of demonstrating the effectiveness of large-scale composites technology. If the transfer is completed within 180 days the Secretary is directed to provide $10,000,000 to the State for rehabilitating the bridge.

I rise to ask the Senator from Nevada, in his capacity as Ranking member of the Subcommittee, to seek his commitment in working with me and the Army Corps of Engineers to ensure that this transfer and the $10 million payment occurs as authorized.

Mr. REID. Yes, I am aware of the transfer of the bridge and the provision in TEA-21. You have my pledge that I will do all I can to see that the Army Corps of Engineers will carry this out as soon as possible.

Mr. BIDEN. I thank the Senator.

GRAND PRAIRIE REGION, ARKANSAS

Mr. BUMPERS. Mr. President, I would like to engage the senior Senator from New Mexico in a colloquy.

Mr. DOMENICI. I would be pleased to join the senior Senator from Arkansas in a colloquy.

Mr. BUMPERS. Mr. President, many of us in Arkansas have been working for several years to reverse a critical ground water resource problem that is developing in our region and will ultimately affect the entire country.

Throughout this century, aquifers in the lower Mississippi River Valley have been falling due to high demand and relatively low recharge. The United States Geological Survey has found that current trends by the year 2015 will reduce the saturated thickness of the aquifers to the point that soils will begin to compact, recharge will not be possible, and the aquifer will effectively be dead, along with nearly half of the U.S. rice industry. Because of the magnitude of this problem, state and local efforts to correct it will never succeed without assistance from the federal government. In that event, a regional economic collapse will occur, a major environmental resource will forever be lost, and our legacy to future generations will carry a lasting shadow of irresponsibility.

The President's Budget Request provided $11.5 million for the Grand Prairie Region. I understand the difficulty the Senate Energy and Water Appropriations Subcommittee faced in trying to fund many worthwhile projects. Unfortunately, the Grand Prairie Project was not funded in this bill. It is also my understanding that the House Energy and Water Appropriations Bill provides the full Budget Request of $11.5 million for the Grand Prairie project.

I ask the Chairman, Senator DOMENICI, for his support in accepting the House level when this legislation is considered in conference.

Mr. DOMENICI. I thank the Senator from Arkansas for his comments. The Senator is correct. The Subcommittee had great difficulty in providing funds for several needed and worthwhile projects. I understand the importance and national significance of the Grand Prairie Project and pledge my support in conference for Grand Prairie if there are sufficient resources.

Mr. BUMPERS. I thank the Chairman for his efforts.

Mr. LEAHY. Mr. President, I would like to engage the Chairman in a colloquy. Last year, the Senator and I discussed the energy generation problems facing rural areas of the United States. The Chairman wisely included funding in the Fiscal Year 1998 Energy and Water Appropriations bill to address this problem. In rural areas, energy distribution systems are often more difficult and expensive to establish. As a result, communities are often forced to rely on more polluting fuel sources because they have lower up front capital costs. The Jeffords amendment the Chairman accepted this morning increases funding for the Remote Power Initiative to $5 million. Is that correct?

Mr. DOMENICI. Yes, the Senator is correct. In Fiscal Year 1998 and 1999 we included funding for the Remote Power Initiative to support deployment of solar, wind, fuel cell, biomass, and other energy technologies in remote areas to address their energy challenges. Last year, you highlighted the energy demands and environmental constraints of ski area operations as one example of this problem facing remote areas. As you noted, ski areas in Vermont were one of the leading sources of NO_x emissions due to use of inefficient and polluting diesel engines for operations. This is the kind of problem the subcommittee had in mind when proposing the Remote Power Initiative.

Mr. LEAHY. I want to thank the Chairman for including funds for the Remote Power Initiative again this year. This Initiative offers the Department of Energy an opportunity to build partnerships with the ski industry to deploy efficient and environmentally-friendly renewable energy technologies to reduce energy use and emissions. Partnerships could also involve environmental technology vendors and service providers who may be interested in cost sharing.

Mr. DOMENICI. I agree with the Senator from Vermont and believe there is a real need to address remote power problems in cold weather areas. I support using some of the funds in the Remote Power Initiative for the purposes you described.

Mr. LEAHY. I thank the Chairman and look forward to working with him and the Department of Energy to bring together ski operators and the renewable energy technology industry to discuss technology and policy issues, and determine appropriate actions and next steps.

BIOMASS ETHANOL RESEARCH

Mrs. FEINSTEIN. Mr. President, I wish to ask a question of the chairman of the subcommittee, the Senator from New Mexico, and the ranking member of the subcommittee, the Senator from Nevada; is it the understanding of the chairman and ranking member that there are enough funds available in the Solar and Renewable Resources Technologies/Biofuels Energy Systems account to continue the feasibility study and project development of a biomass ethanol plant in Plumas County, California?

Mr. DOMENICI. That is correct. Funding is available under this bill for the Department of Energy under the Biofuels Energy Systems account that could be used to study the feasibility of the Plumas County project.

Mr. REID. That is my view as well. I would urge the DOE to consider supporting this project in fiscal year 1999.

Mrs. FEINSTEIN. I thank the Senators.

Mr. BENNETT. Mr. President, it is my understanding that western states and the western electric power industry have been engaged in intensive efforts to create a competitive and reliable western electricity market covering all or parts of 14 states, two Canadian provinces and northern Mexico. I believe this is exactly the type of local cooperative action Congress hoped for in the enactment of the Energy Policy Act of 1992. I ask the Chairman, does the budget contain funds to help western states work with the electric power industry to promote competitive and reliable electricity markets in the Western Interconnection?

Mr. DOMENICI. The Senator is correct.

Mr. BENNETT. Is it the Committee's intent that the Department of Energy is to give priority in the expenditure of such funds to assisting western states which are collectively working with

the industry on a gridwide basis to promote competitive and reliable regional electricity markets?

Mr. DOMENICI. The Senator is correct.

Mr. BENNETT. I thank the Chairman.

WESTERN AREA POWER ADMINISTRATION

Mr. BURNS. Mr. President, I understand that the Western Area Power Administration and The Bureau of Reclamation are considering raising rates for the power necessary to operate irrigation systems in the Eastern Division of the Pick-Sloane Missouri Basin Project. The purpose of these agencies is not to raise revenue. Rather, these agencies are designed to provide reliable and affordable power for multipurpose economic development.

Mr. DOMENICI. I agree Senator BURNS, affordable power rates for irrigation districts are vital to all those living in the western United States.

Mr. BURNS. This is especially true considering the recent drought and low wheat prices that we have been experiencing throughout the region. The farmers in this region simply cannot afford the burden that this rate increase will place on them.

Mr. DOMENICI. I understand that the situation now facing many of these farmers and ranchers is dire. You make a very compelling argument against raising rates and production costs for an industry that is already facing disaster.

Mr. BURNS. I thank Senator DOMENICI for his recognition of this problem. I will fully commit myself to working with him to resolve this situation as soon as possible.

Mr. LEAHY. Mr. President, I would like to engage the Chairman in a colloquy. Senator DOMENICI, I would like to thank you and Senator REID for your willingness to boost funding for the Department of Energy's important solar and renewable programs. I am especially pleased to see an increase in funding for the biomass energy systems account. In Vermont, work is continuing at the McNeil Generation Plant in Burlington to demonstrate the effectiveness of biomass gasification. This is an important renewable technology which will help our country reduce greenhouse gas emissions.

Earlier this year the Department of Energy agreed to a modification of the contract for the McNeil project which resulted in a $6 million increase in the Department's contribution to the South Burlington facility. These funds will be matched dollar for dollar by the partners who are participating with DoE in this important renewable program. Because the contract modification was not reached until after the President had submitted his Fiscal Year 1999 budget proposal, that increase was not reflected in the funding request for the biomass energy systems account. It is my understanding that the increase in funding for biomass energy systems includes the $6 million needed for the Department to meet its obligations under the contract for the McNeil facility.

Mr. DOMENICI. I concur with the Senator from Vermont as to the importance of the Vermont gasifier. I concur that it would be desirable to provide funds for that project. In conference, as we reach agreement with the House on the allocation of funds for Biomass, I will work to provide that funding.

Mr. BINGAMAN. Mr. President, I rise in support of the energy and water development appropriations bill and to take a few moments to engage in a colloquy with the chairman of the subcommittee on one of the many important programs being funded in the bill. That would be the technology transfer and education programs funded under Atomic Energy Defense Activities. These programs are an important investment in the future of the country, by leveraging the facilities, expertise, and R&D results funded by the Department's defense missions to the benefit of broader national science, technology, and education objectives. We have seen some important spin-offs over the years from DOE defense-related research, and this funding will ensure that we continue to see both spin-off and the flow of technology, ideas, and trained personnel into the labs, to the benefit of the Department's important statutory missions.

One example of a technology partnership area of importance, and which I hope the Department will fully fund in fiscal year 1999, is the Advanced Computational Technology Initiative, or ACTI. The ACTI program makes available to smaller oil and gas producers the computational and simulation resources of the national laboratories. One component of the ACTI program over the years, the Advanced Reservoir Management program, has funded advances in complex computational database management and electronic information systems that have been of benefit both to the oil and gas industry and DOE's defense programs.

I know that my colleague from New Mexico, the chairman of the subcommittee, is a strong supporter of our oil and gas industry. I would urge him to maintain funding of the ACTI program at the level of the President's request as this bill moves forward to conference.

Mr. DOMENICI. I completely agree with my colleague. We are united in our support for the oil and gas industry in New Mexico. The bill that I have brought forward today provides full funding for the ACTI program at the President's requested level. The program is one of a series of technological partnerships between the DOE national laboratories and industry which are producing real value to the U.S. economy. I plan to maintain this strong support for ACTI and other technology partnerships at DOE as this bill moves forward to enactment.

Mr. CAMPBELL. I thank my colleague, Senator INHOFE, for engaging in this dialogue to clear up confusion surrounding section 3(b) of S. 1279, the Indian Employment, Training and Related Services Demonstration Act Amendments of 1998.

Mr. INHOFE. What exactly does section 3(b) of S. 1279 purport to do?

Mr. CAMPBELL. It attempts to clarify inconsistencies in implementing Public Law 102–477. Over the past four years, tribes have attempted to integrate both programs into their 477 plans. They have received at best, inconsistent responses from the BIA. On several occasions the Bureau approved the integration, and other times integration was rejected. The Bureau confirmed this confusion at a May 13, 1997 Indian Affairs Committee hearing when it submitted conflicting testimony regarding its approval of including the JOM program into tribal plans. Section 3(b) makes clear that "at the option of a tribe" funds under both the General Assistance and Johnson O'Malley programs may be integrated into tribal 477 plans.

Mr. INHOFE. Is it true that your bill will not affect in any manner the current regulations and requirements established by the Department of the Interior with regard to the Johnson O'Malley program?

Mr. CAMPBELL. That's correct. In fact, I have here a letter from the Assistant Secretary of Indian Affairs, which states that while they support section 3(b)'s integration of Johnson O'Malley, "the program must continue to be conducted in accordance with its authorizing statute." Another letter dated March 28, 1998 states that the JOM parent committee will continue to have the authority to approve and disapprove tribal plans to integrate funds within the 477 program. I ask unanimous consent that each of these letters be placed in the record.

Mr. INHOFE. The Johnson O'Malley program is a supplemental education program designed to benefit Indian children aged 3 through grade 12 attending public schools. I'm concerned that permitting tribes the option to use these funds within employment and training plans will permit tribes to instead use these funds for post-high school adult employment training programs.

Mr. CAMPBELL. I agree with your concern, and that is why I amended the original language of the bill to expressly require tribal governments wishing to integrate these funds into their 477 programs to include adequate assurances that such funds will be used only for those intended beneficiaries, children aged 3 through grade 12. I would, however, like to make clear that with the onset of welfare reform

upon us, tribal governments must be afforded adequate flexibility to administer the limited federal resources available. This bill attempts to provide that added flexibility.

Mr. INHOFE. I thank Senator CAMPBELL for clearing up these concerns. I'm encouraged by the assurances that the Johnson O'Malley Program will not be adversely affected by this measure.

Mr. DOMENICI. Mr. President, S. 2138, the Energy and Water Development Appropriations Act, 1999, complies with the Budget Act's section 302(b) allocation of budget authority and outlays.

The reported bill provides $20.9 billion in budget authority and $13.1 billion in new outlays to fund the civil programs of the Army Corps of Engineers, the Bureau of Reclamation, certain independent agencies, and most of the activities of the Department of Energy. When outlays from prior year budget authority and other actions are taken into account, this bill provides a total of $20.7 billion in outlays.

For defense discretionary programs, the bill is at its allocation for budget authority and below its allocation for outlays by $2 million. The Senate-reported bill also is below its nondefense discretionary allocation by $38 million in budget authority and $1 million under its allocation for outlays.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the RECORD.

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

S. 2138, ENERGY AND WATER APPROPRIATIONS, 1999—SPENDING COMPARISONS, SENATE-REPORTED BILL

[Fiscal year 1999, dollars in millions]

	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	12,030	8,909			20,939
Outlays	11,818	8,899			20,717
Senate 302(b) allocation:					
Budget authority	12,030	8,947			20,977
Outlays	11,820	8,900			20,720
President's request:					
Budget authority	12,298	9,003			21,301
Outlays	11,875	9,150			21,025
House-passed bill:					
Budget authority					
Outlays					
SENATE-REPORTED BILL COMPARED TO:					
Senate 302(b) allocation:					
Budget authority		−38			−38
Outlays	−2	−1			−3
President's request:					
Budget authority	−268	−94			−362
Outlays	−57	−251			−308
House-passed bill:					
Budget authority	12,030	8,909			20,939
Outlays	11,818	8,899			20,717

NOTE.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Ms. SNOWE. Mr. President, I rise today in support of the passage of S. 2138, the FY99 Energy and Water Development Appropriations bill. In particular, I thank my colleagues for approving $6 million for U.S. Army Corps of Engineers' funding for the harbor dredge in Portland, Maine.

I have supported the timely advancement of the harbor dredging because of public safety and environmental concerns and the project is the top priority for the state. Portland Harbor badly needs dredging, and it is to the great credit of the Portland Harbor Dredge Committee, made up of officials from the state, local, not-for-profit agencies and the private sector that the dredging project is now ready to begin, at least a year ahead of what the US Army Corps of Engineers expected. Corps officials had already made it clear that the project needed to begin this next winter in order to minimize environmental impacts, but could not be started until environmental determinations were made. The Dredge Committee, working together since 1994, was successful in obtaining the necessary permits, including allowing the bulk of the dredged material from Portland Harbor to be deposited at sea.

As I pointed out in the Budget Committee back in March when I first brought up the harbor dredging during Budget Reconciliation, the Corps project simply could not wait another year for funding to be included in the federal budget. It is to the credit of the state, the surrounding communities and the agencies working for the dredging that the project is ready to begin, and the window for the dredging to occur so as to mitigate the environmental risks, according to the Corps, is from October, 1998 to April, 1999. This should now be possible if the Senate funding level is protected in conference with the House.

I would also like to thank Senator DOMENICI and his Appropriations Subcommittee for federal funding for the Ft. Fairfield levee in rural Northern Maine, and also for including language in the appropriations bill that will allow construction of a levee to protect the town against further flooding. This Corps small flood control project is considered essential to the economic survival of Fort Fairfield. The town has experienced severe flooding over the last several years, and as recently as two months ago, was once again on emergency alert because of river flooding, and some senior citizens had to be evacuated from the their homes.

Back in April 1994 alone, flood waters exceeded the 100-year flood plain and caused an estimated $7 million in property damages to businesses and residences. The town is prepared to embark on a redevelopment project once a levee has been built to prevent future floods. Once again, we thank the appropriations committee for realizing the importance of the levee to me and to this small rural town in Northern Maine.

Mr. REID. The Department of Energy is negotiating a contract involving the Nevada Test Site and the Western Area Power Administration to purchase 5 to 10 megawatts of solar energy on behalf of the Nevada Test Site. A single bidder; the Corporation for Solar Technologies and Renewable Resources, has been selected through a competitive process and the Department is in the process of determining on what terms it should enter into such a contract.

Mr. DOMENICI. I concur with the Senator from Nevada's understanding of the current circumstances regarding the status of that contract. I understand the Department of Energy has engaged in a rigorous review to determine at what price and for what period of time it should enter into such a contract.

Mr. REID. This would be an unusual contract. However, it also offers some tremendous potential. If implemented correctly, this effort could demonstrate the viability of large scale commercial development of solar energy.

Mr. DOMENICI. I have reviewed the current situation and have been in contact with senior officials in the Department of Energy who have provided me with assurances that, while unusual, this contract has been subject to rigorous review and, on balance, is worthwhile because of the value that could

be derived from demonstrating the use of solar energy on this scale. For this reason, and subject to the continued review of the Department, I am willing to recommend that the Department proceed with its negotiations on this contract.

Mr. REID. I thank the Senator from New Mexico for his support of this innovative effort and would also like to note the diligent efforts of my colleague from Nevada, Senator BRYAN who has dedicated a great deal of attention to this initiative. I concur with the value he sees in this opportunity as well as the value that may accrue to the Nevada Test Site in its efforts to identify new missions and responsibilities. Solar and renewable energy demonstration is one of those areas for which the Nevada Test Site has unique national capabilities and I look forward to further work in this regard.

ANIMAS-LA PLATA PROJECT

Mr. FEINGOLD. Mr. President, I wanted to make a statement on a matter of concern to me in the FY 99 Energy and Water Appropriations legislation. As my colleagues know, I have long been active in raising Senate awareness about the financial costs of moving forward with development and construction of the full-scale version of the Animas-La Plata project. I am concerned that Section 505 of the legislation before us may require the federal government to proceed with construction of the full-scale project, just at the time when the Congress is about to get additional information from the Bureau of Reclamation about alternatives to that project.

As my colleagues will recall from the debate on an amendment I offered to the FY 98 Energy and Water Appropriations legislation on this matter, the currently authorized Animas-La Plata project is a $754 million dollar water development project planned for southwest Colorado and northwest New Mexico, of which federal taxpayers are slated to pay more than 65% of the costs.

As described in the Committee Report on the legislation now before this body on page 80, the total federal cost associated with this project is now more than $512 million.

Section 505 of this bill starts out sounding like a prohibition on funds for the Animas-La Plata project. It states that none of the money in this bill is to be used "to pay the salary of any officer or employee of the Department of the Interior may be used for the Animas-La Plata Project."

However, the bill goes on to say that none of the money may be used for the Animas-La Plata project except in two cases: "(1) activities required to comply with the applicable provisions of current law; and (2) continuation of activities pursuant to the Colorado Ute Settlement Act of 1988."

Mr. President, let me be clear, the applicable provisions of current law require the construction of the full project. And though Section 505 of the bill before us is similar to language added by the other body to the FY 98 Energy and Water Appropriations legislation and retained by the Conferees, it was never considered by this body.

Subsequently, Mr. President, I do not believe, as I will discuss in greater detail, that Section 505 reflects either the position of this body or the current status of Animas-La Plata.

I am concerned with Section 505 for two reasons. First, it is not consistent with the activities proposed to be conducted by the Administration with the $3 million in funds it requested for Animas La Plata, funds which are included in this bill.

As I described on the floor last year, in an attempt to resolve the disputes surrounding Animas La Plata, Colorado Governor Roy Roemer and Lieutenant Governor Gail Schoettler convened a discussion process in October of 1996 to resolve issues involving the principal parties in a dialogue about the Animas project in order to reach consensus.

The Roemer-Schoettler process produced two major alternatives for consideration, one construction alternative and one non-construction alternative. As stated in the FY 99 Budget Justification issued by the Department of the Interior for the Animas La Plata project on page 223, "appropriate implementation activities" for these alternatives "will likely depend upon further direction from Congress."

This body knew that. At the time members voted on the amendment I offered last year to ensure a thorough evaluation, Roemer-Schoettler was concluding and the Interior Department was about to embark on an evaluation of the Roemer-Schoettler alternatives. That evaluation has not yet been completed and given to Congress.

In fact, Mr. President, the Interior Department's Budget Justification for FY 99 makes clear that these analyses are not yet finished. On page 226, it states that "work proposed for the Animas-La Plata project includes analysis of alternatives developed during the Roemer-Schoettler process and other subsequent activities." It continues, "depending on actions taken subsequent to the development of alternatives through the Roemer-Schoettler process, FY 1999 work could include finishing a study of alternatives, preparing cost share agreements, water rights settlement agreements, and repayment contracts and NEPA, Clean Water Act and other environmental compliance processes."

Mr. President, this justification specifically says that the Interior Department is not intending to proceed with the original full-scale Animas-La Plata Project in FY 99. The Interior Department, it says, instead wants $3 million in FY 99 to finish a study of alternatives and, depending upon Congressional action and direction, it could undertake a number of activities related to the implementation of alternatives in FY 99.

Not only does Section 505 require the Interior Department to go back to planning and evaluating the old full-scale project, it also fails to recognize the strong message that the Congress, project proponents and project opponents all recognize the full-scale project is dead. After 30 years, and now more than $70 million in appropriations to date, the project costs of full-scale Animas-La Plata are too great, and there are too many lingering substantive questions to proceed with the original design.

The other body has twice voted to terminate funds for the full-scale Animas La Plata project.

Last year, 42 members of this body supported my amendment to require the Interior Department to provide a report to Congress on a revised project plan for Animas-La Plata that would reduce the total cost of the program to the Federal Government, satisfy the Ute water rights claims, and ensure that no funds were expended for construction until a revised project had been authorized by Congress.

The Senior Senator from Colorado (Mr. CAMPBELL) has legislation before this body (S. 1771) to modify the Colorado Ute Water Rights Settlement of 1988 so that the Ute's claims would be satisfied by the construction of only a portion of the facilities that are proposed to be built in the full-scale project. The Senate Indian Affairs Committee and the Senate Energy Committee are expected to hold a joint hearing on that legislation next week. I have concerns about whether that legislation will actually restrict the obligation the federal government to the construction of only a portion of the original project, but I was looking forward to having that discussion in the appropriate venue.

Mr. President, I too have legislatively supported the search for an alternative to Animas-La Plata. In fact, legislation that I introduced on March 13, 1997 cosponsored by the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Oregon (Mr. WYDEN) and sponsored in the other body by my colleague from Wisconsin (Mr. PETRI) and the Congressman from New York (Mr. DEFAZIO), deauthorizes the current Animas-La Plata project and directs the Secretary of the Interior to work with the Southern Ute and Ute Mountain tribes to find an alternative to satisfy their water rights needs.

With all this focus on an alternative, the Senate should not be requiring the Interior Department to proceed with the current project.

So why is Section 505 in the bill, Mr. President? The legislative language

seems to cast doubt on the Senate's intentions, and this Senator can only assume that we are appropriating money for the original project because there is some need to provide those who support a construction alternative with the ultimate insurance that it will be built. Should a construction alternative be infeasible, and from a policy perspective it may be so, continuing to sock money away for the original full-scale project provides a rationale for proceeding with the project.

Mr. President, I am not certain how Congress ultimately will decide to proceed on this matter, but we are now engaged in evaluation of alternatives to the full-scale Animas project. I am certain, moreover, that it is within the jurisdiction of this body's Energy Committee to determine the benefits of an alternative Reclamation project. Additionally, it is the responsibility of this body's Indian Affairs committee to make certain that the federal government's legal responsibilities to the Ute tribes under any sort of revised agreement are met. We should let these hearings move forward without legislatively trumping any potential for implementing an alternative through section 505.

This Senate should not go backward and require the Interior Department to proceed with the full-scale Animas project. We have the potential, if we carry on with the activities the Interior Department proposes to conduct, to achieve significant savings and settle the Ute's claims. The Roemer-Schoettler process generated two alternatives, which the Interior Department is studying. What is clear is that these alternatives have the potential to save the taxpayers between $500–$600 million. These savings will certainly not be realized if we proceed with the full-scale Animas project as required by section 505.

Mr. LEVIN. Mr. President, I am pleased the managers have accepted my amendment adding funds for two shoreline erosion projects along the Detroit River. The funds provided will allow reconnaissance surveys to go forward to help develop longer term plans for the important ongoing and comprehensive effort to revitalize the Detroit waterfront. I call to the attention of my colleagues that the Detroit River has been named by the administration as an American Heritage River. Such recognition, combined with attention from the Army Corps and other Federal agencies, will assist in these redevelopment efforts.

The managers have also accepted my and Senator GLENN's proposal to clarify that aquatic ecosystem restoration funds (section 206) can be used for sea lamprey barrier construction. The language in the amendment does not place a limit on the Corps' use of section 206 funds for this purpose. As my colleagues may know, the sea lamprey is a devastating invasive species that has plagued the Great Lakes since it first appeared and these barriers play an important role in preventing this species spread and population growth. The Corps can and should work with the Great Lakes Fishery Commission to place these barriers in the most efficient spots.

In addition, the managers have agreed to accept two important changes affecting contaminated sediments. The first is my and Senator GLENN's recommendation to increase the funds available for development of technology to remediate contaminated sediments. This is a pressing problem in the Great Lakes and across the country as EPA's recently published inventory of sediment quality establishes. The amount provided should help us make some progress in identifying cost-effective means of addressing this difficult pollution issue. The second is making it clear that the Corps can and Congress desires the Corps to spend funds to support the National Contaminated Sediment Task Force. This body was first authorized in WRDA 1992, but no Administration has requested funds to make this Task Force operational. The lack of funding for this body to date and the resulting lack of attention to this important matter must be changed.

I would also note that the Committee has significantly increased the planning assistance to States, as I and my Great Lakes colleagues proposed, and that the Corps should use some of this increase to provide technical assistance, as authorized in section 401 of WRDA, to communities working on developing Remedial Action Plans in Areas of Concern.

Mr. President, the diversion of Great Lakes waters out of the Great Lakes Basin is a matter of great concern to those of us from the Great Lakes region. Earlier this year, a Canadian firm announced plans and received permission from the Ontario Provincial Government, permission which has since been withdrawn, to export water from Lake Superior to Asia. Also, the Army Corps has been considering a permit from a company in Wisconsin that wants to use ground water that would otherwise discharge into Lake Michigan for an industrial process then send the wastewater out of the Basin into the Mississippi River watershed. These and other activities, including litigation on the latter action, highlight the need for Congress to reemphasize that existing law prohibits such interbasin transfers, unless the process under the Water Resources Development Act of 1986 is followed.

Last year, the managers accepted an amendment I offered to prohibit the Corps from using appropriated funds to permit a diversion, though it was subsequently dropped in conference. Senators GLENN and FEINGOLD and I had discussed offering a similar amendment to the fiscal year 1999 bill clarifying that such permitting activities on the part of the Corps, and indeed, all Federal agencies, are prohibited under WRDA 1986 unless the Great Lakes States unanimously approve of any diversion. However, the Senator from Nevada, who also sits on the Environment and Public Works Committee, has offered his assistance on this matter, which needs attention and clarification when and if the Senate prepares and considers a new Water Resources Development Act for 1998. I thank him for that consideration and we will await our next opportunity.

The Committee bill includes some other important items for Michigan and the Great Lakes. They include:

$1.5 million for Corps' public facility research and development to control zebra mussels and other invasive species.

$1 million for solar thermal energy dish/engine field verification, which would support work that has been done by Stirling Thermal Motors in Ann Arbor.

$3 million for accelerated demonstration of federally sponsored research for renewable energy production and environmental remediation project at the Michigan Biotechnology Institute in Okemos.

$.5 million for Great Lakes sediment transport and modeling. The Corps can use these funds to develop models to target Areas of Concern, such as the Saginaw River, for preventive measures to control future sediment loadings,

$39.95 million for operation and maintenance (mainly dredging at 24 harbors, rivers and channels in Michigan), including $1.9 million for Pentwater Harbor, which was not in the budget request.

$.5 million to begin preparation of the general design memo for replacement lock at Sault Ste. Marie.

$6 million for aquatic ecosystem restoration. These funds can now be used to construct sea lamprey barriers, per the accepted amendment mentioned previously.

$70 million more than proposed by the Committee, per the Jeffords/Roth amendment, for solar and renewable energy research and development. This is the amount in the President's budget request.

Mr. President, this is a good bill, despite the budget constraints that the managers faced in putting it together. I look forward to working with the managers and other Committee members on these important matters as they proceed to Conference.

Mr. MCCONNELL. Mr. President, I come to the floor today to engage my distinguished colleague, the Chairman of the Energy and Water Appropriations Subcommittee, Senator DOMENICI, in a colloquy on an issue which

could have a tremendous impact on the economies of Paducah, Kentucky and Portsmouth, Ohio.

Mr. President, I am deeply concerned about the magnitude of the job cuts that may occur as a result of the imminent privatization of the United States Enrichment Corporation (USEC). It is my understanding that upward of 1,700 jobs might be lost once the Corporation is privatized. Further, I am told that 600 jobs could be lost even if USEC is not privatized and continues to operate as a Federal Corporation. In an effort to mitigate the loss of jobs at the Paducah and Portsmouth facilities, I have drafted an amendment to ensure that dollars currently earmarked for the cleanup of USEC generated uranium tails, which is an extremely toxic material, remain dedicated to cleaning up the Paducah and Portsmouth plants.

Mr. President, today USEC has accrued approximately $400 million on its books for the purpose of cleaning up the uranium waste generated by the uranium enrichment process. It is my understanding, however, that this money only remains available until USEC is privatized. At that point, the funds will be transferred to the General Fund of the Treasury. I believe it would be a huge mistake if we allowed these funds to be dumped into the General Fund, while we have a tremendous need for this cleanup, and funds specifically dedicated for this cleanup. Ensuring that these funds will be spent to dispose of USEC's uranium waste at both of the Gaseous Diffusion plants, will also help to mitigate job losses which occur as a result of privatization.

Although I will not offer my amendment today, I would like to discuss it with Senator DOMENICI.

Mr. Chairman, isn't it true that since its inception in 1993, the USEC has created over 9,300 canisters of depleted uranium hexaflouride, with over 6,000 located at Paducah? Also, hasn't USEC carried over $400 million on its balance sheet for the clean up of this waste stream?

Mr. DOMENICI. The Senator is correct, USEC does maintain a fund specifically earmarked for the cleanup of this material.

Mr. McCONNELL. I would ask the Chairman of the Energy and Water Subcommittee what will happen to both the cleanup liability and the funds, upon the privatization of USEC. Won't the Department of Energy (DOE) accept full responsibility for the cleanup for this environmental liability, as provided under the 1996 USEC Privatization Act? Also, it is my understanding that the funds would be transferred to the General Fund, and no longer specifically dedicated to funding USEC's environmental cleanup? Is this accurate?

Mr. DOMENICI. The USEC privatization legislation sets a cut-off at the date of privatization. Environmental liabilities that occur after the date of privatization—when USEC is no longer government owned—are not the responsibility of the Federal Government. Liabilities incurred prior to that date—when USEC is Government owned—remain the responsibility of the Government.

Mr. McCONNELL. Mr. President, I, for one, would like to see that DOE use the funds, which were collected from USEC customers and currently earmarked for cleaning up the uranium, continue to be dedicated to cleanups.

Would the Chairman of the Energy and Water Subcommittee assist me in finding a solution to ensure that the money earmarked, for the purpose of cleaning up the uranium tails produced by USEC, will continue to be dedicated for these purposes and help to mitigate the job losses at these plants?

Mr. DOMENICI. I agree that we need to make cleanup a priority and seek to apply these funds toward cleanup—they were collected for that purpose and should be used for such. I will work with the Senator to achieve this end.

AMENDMENT NO. 2726

Mr. DOMENICI. I send to the desk an amendment on behalf of Mr. DORGAN and Mr. CONRAD and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. DORGAN and Mr. CONRAD, proposes an amendment numbered 2726.

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

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

The amendment is as follows:

On page 18, line 2 insert the following after the period:

": *Provided further*, That the Secretary of the Interior shall waive the scheduled annual payments for fiscal years 1998 and 1999 under section 208 of Public Law 100-202 (101 Stat. 1329-118)".

And on page 16, line 16 strike: "$697,919,000" and insert: "$697,669,000".

Mr. DOMENICI. Mr. President, we have no objection to the amendment.

Mr. REID. No objection.

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

The amendment (No. 2726) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. REID. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2727

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senator MURRAY and Senator GORTON, the occupant of the Chair.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mrs. MURRAY and Mr. GORTON, proposes amendment numbered 2727.

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

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

The amendment is as follows:

On page 21, line 19: strike "$456,700,000, to remain available until expended." and insert "424,600,000, to remain available until expended."

ENERGY SUPPLY

On page 21, line 2 strike "motor vehicles for replacement only, $699,836,000, to re-" and insert "motor vehicles for replacement only, 699,864,000, to re-"

Mr. DOMENICI. Mr. President, essentially this amendment moves the dollar amount for the flux reactor in your State and Senator MURRAY's State from one account to another. In the process, because of the outlays of one portion versus the other, the budget authority had to be reduced by $4 million. It has been adjusted accordingly, and we have no objection.

Mr. REID. There is no objection on this side.

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

The amendment (No. 2727) was agreed to.

Mr. DOMENICI. I thank Senator MURRAY for her attention.

Mr. REID. I move to reconsider the vote.

Mr. DOMENICI. I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER), is absent because of illness.

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—98

Abraham	Bennett	Breaux
Akaka	Biden	Brownback
Allard	Bingaman	Bryan
Ashcroft	Bond	Bumpers
Baucus	Boxer	Burns

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

NAYS—1

Feingold

NOT VOTING—1

Specter

The bill (S. 2138) as amended, was passed, as follows:

S. 2138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $165,390,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Rehoboth and Dewey Beaches, Delaware, $150,000;

Fort Pierce Shore Protection, Florida, $300,000;

Lido Key Beach, Florida, $300,000;

Paducah, Kentucky, $100,000; and

Lake Pontchartrain Basin Comprehensive Study, Louisiana, $500,000:

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $700,000 of the funds appropriated in Public Law 102-377 for the Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, project for the feasibility phase of the Red River Navigation, Southwest Arkansas, study: *Provided further*, That the Secretary of the Army may make available $500,000 for the Atlanta Watershed, Atlanta, Georgia project.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,248,068,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredge Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri; Lock and Dam 14, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota, projects, and of which funds are provided for the following projects in the amounts specified:

Norco Bluffs, California, $4,000,000;

Panama City Beaches, Florida, $5,000,000;

Indianapolis Central Waterfront, Indiana, $4,000,000;

Harlan, Williamsburg, Pike County Middlesboro, Cumberland City/Harland County, and Martin County, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project in Kentucky, $28,500,000;

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $10,000,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, $6,000,000;

Jackson County, Mississippi, $4,500,000;

Pascagoula Harbor, Mississippi, $10,000,000;

Wallisville Lake, Texas, $8,000,000;

Virginia Beach, Virginia (Hurricane Protection), $20,000,000;

Upper Mingo County (including Mingo County Tributaries), Lower Mingo County (Kermit), Wayne County, Hatfield Bottom, and McDowell County, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project in West Virginia, $12,300,000; and the Grundy, Virginia element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project, $1,000,000:

Provided, That the navigation project for Cook Inlet Navigation, Alaska, authorized by Section 101(b)(2) of Public Law 104-303 is modified to authorize the Secretary of the Army, acting through the Chief of Engineers to construct the project at a total cost of $12,600,000 with an estimated first Federal cost of $9,450,000 and an estimated first non-Federal cost of $3,150,000: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $5,000,000 provided herein to construct bluff stabilization measures at authorized locations for the Natchez Bluff, Mississippi at a total estimated cost of $26,065,000 with an estimated first Federal cost of $19,549,000 and an estimated first non-Federal cost of $6,516,000 and to award continuing contracts, which are not to be considered fully funded: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds previously appropriated for the LaFarge Lake, Kickapoo River, Wisconsin project to complete and transmit to the appropriate committees of Congress by January 15, 1999 a decision document on the advisability of undertaking activities authorized by Public Law 104-303: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, may use up to $8,000,000 of the funding appropriated herein to initiate construction of an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River, and that this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 901(b)(2)(D)(i)); except that funds shall not become available unless the Secretary of the Army determines that an emergency (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) exists with respect to the emergency need for the outlet and reports to Congress that the construction is technically sound, economically justified, and environmentally acceptable and in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided further*, That the economic justification for the emergency outlet shall be prepared in accordance with the principles and guidelines for economic evaluation as required by regulations and procedures of the Army Corps of Engineers for all flood control projects, and that the economic justification be fully described, including the analysis of the benefits and costs, in the project plan documents: *Provided further*, That the plans for the emergency outlet shall be reviewed and, to be effective, shall contain assurances provided by the Secretary of State, after consultation with the International Joint Commission, that the project will not violate the requirements or intent of the Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, signed at Washington January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the "Boundary Waters Treaty of 1909"): *Provided further*, That the Secretary of the Army shall submit the final plans and other documents for the emergency outlet to Congress: *Provided further*, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the portion of the feasibility study of the Devils Lake Basin, North Dakota, authorized under the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility or carry out any activity that would permit the transfer of water from the Missouri River Basin into Devils Lake: *Provided further*, That the entire amount of $8,000,000 shall be available only to the extent an official budget request, that includes the designation of the entire amount of the request as an emergency requirement as defined by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $500,000 of funds appropriated herein to continue construction of the Joseph G. Minish Passaic River waterfront park and historic area, New Jersey project: *Provided further*, That of amounts made available by this Act for project modifications for improvement of the environment under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C.

2309a), $500,000 may be made available for demonstration of sediment remediation technology under section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644): *Provided further*, That the Secretary of the Army may make available $100,000 for the Belle Isle Shoreline Erosion Protection, Michigan project; $100,000 for the Riverfront Towers to Renaissance Center Shoreline Protection, Michigan project; and $200,000 for the Great Lakes Basin, Sea Lamprey Control, section 206, Michigan project.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $313,234,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,667,572,000, to remain available until expended, of which $460,000 may be made available for the Omaha District to pay pending takings claims for flooding of property adjacent to the Missouri River caused by actions taken by the Army Corps of Engineers, of which $2,540,000 shall be available for the project on the Missouri River between Fort Peck Dam and Gavins Point in South Dakota and Montana, under section 9(f) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (102 Stat. 4031), of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601), may be derived from that Fund for construction, operation, and maintenance of outdoor recreation facilities, and of which funds are provided for the following projects in the amounts specified:

Ponce DeLeon Inlet, Florida, $4,000,000;

Delaware River, Philadelphia to the Sea, Pea Patch Island, Delaware and New Jersey, $1,500,000; and

Yuquina Bay and Harbor, North Marina Breakwater, Oregon, $1,100,000:

Provided, That no funds, whether appropriated, contributed, or otherwise provided, shall be available to the United States Army Corps of Engineers for the purpose of acquiring land in Jasper County, South Carolina, in connection with the Savannah Harbor navigation project: *Provided further*, That notwithstanding section 103(c)(1) of Public Law 99–662, the Secretary of the Army is directed to use up to $100,000 of the funds appropriated herein for the Bluestone Lake, West Virginia, project to reimburse the Tri-Cities Power Authority the total amount provided by the Authority to the Department of the Army after fiscal year 1997 for the reevaluation study for the project.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $106,000,000, to remain available until expended, of which $250,000 may be made available to support the National Contaminated Sediment Task Force established by section 502 of the Water Resources Development Act of 1992 (33 U.S.C. 1271 note; Public Law 102–580).

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to clean up contaminated sites throughout the United States where work was performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended: *Provided*, That the remedial actions by the U.S. Army Corps of Engineers under this program shall consist of the following functions and activities to be performed at eligible sites where remediation has not been completed: sampling and assessment of contaminated areas, characterization of site conditions, determination of the nature and extent of contamination, preparation of designation reports, cleanup and closeout of sites, and any other functions determined by the Chief of Engineers as necessary of remediation: *Provided further*, That remedial actions by the U.S. Army Corps of Engineers under this program shall be subject to the administrative, procedural, and regulatory provisions of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq., and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R., Chapter 1, Part 300: *Provided further*, That, except as stated herein, these provisions do not alter, curtail or limit the authorities, function or responsibilities of other agencies under the Atomic Energy Act, 42 U.S.C. 2011 et seq.: *Provided further*, That the unexpended balances of prior appropriations provided for these activities in this Act or any previous Energy and Water Development Appropriations Act may be transferred to and merged with this appropriation account, and thereafter, may be accounted for as one fund for the same time period as originally enacted.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Water Resources Support Center, and the USACE Finance Center; and for costs of implementing the Secretary of the Army's plan to reduce the number of division offices as directed in title I, Public Law 104–206, $148,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices.

REVOLVING FUND

Amounts in the Revolving Fund may be used to construct a 17,000 square foot addition to the United States Army Corps of Engineers Alaska District main office building on Elemendorf Air Force Base. The Revolving Fund shall be reimbursed for such funding from appropriations of the benefitting programs by collection each year of user fees sufficient to repay the capitalized cost of the asset and to operate and maintain the asset. Using amounts available in the Revolving Fund, the Secretary of the Army is authorized to renovate office space in the General Accounting Office headquarters building in Washington, DC, for use by the Corps and GAO. The Secretary is authorized to enter into a lease with GAO to occupy such renovated space as appropriate, for the Corps' headquarters. The Secretary shall ensure that the Revolving Fund is appropriately reimbursed from appropriations of the Corps' benefitting programs by collection each year of amounts sufficient to repay the capitalized cost of such renovation and through rent reductions or rebates from GAO.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Notwithstanding any other provisions of law, no fully allocated funding policy shall be applied to projects for which funds are identified in the Committee reports accompanying the Act or a subsequent Energy and Water Development Appropriations Act under the Construction, General; Operation and Maintenance, General; and Flood Control, Mississippi River and Tributaries, appropriation accounts: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake these projects using continuing contracts, as authorized in section 10 of the Rivers and Harbors Act of September 22, 1922 (33 U.S.C. 621).

SEC. 102. In fiscal year 1999, the Secretary of the Army is authorized and directed to provide planning, design and construction assistance to non-Federal interests in carrying out water-related environmental infrastructure and environmental resources development projects in Alaska, including assistance for wastewater treatment and related facilities; water supply, storage, treatment and distribution facilities; development, restoration or improvement of wetlands and other aquatic areas for the purpose of protection or development of surface water resources; and bulk fuel storage, rural power, erosion control, and comprehensive utility planning: *Provided*, That the non-Federal interest shall enter into a binding agreement with the Secretary wherein the non-Federal interest will provide all lands, easements, rights-of-way, relocations, and dredge material disposal areas required for the project, and pay 50 per centum of the costs of required feasibility studies, 25 per centum of the costs of designing and constructing the project, and 100 per centum of the costs of operation, maintenance, repair, replacement or rehabilitation of the project: *Provided further*, That the value of lands, easements, rights-of-way, relocations and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal share, not to exceed 25 per centum, of the costs of designing and constructing the project: *Provided further*, That utilizing $5,000,000 of the funds appropriated herein, the Secretary is directed to carry out this section.

SEC. 103. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity

or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, and for activities related to the Uintah and Upalco Units authorized by 43 U.S.C. 620, $43,665,000, to remain available until expended, of which $15,476,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided*, That of the amounts deposited into that account, $5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Central Utah Project Completion Act and $10,476,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,283,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian Tribes, and others, $697,669,000, to remain available until expended, of which $1,873,000 shall be available for transfer to the Upper Colorado River Basin Fund and $46,218,000 shall be available for transfer to the Lower Colorado River Basin Development Fund, and of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601-6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That of the total appropriated, $25,800,000 shall be derived by transfer of unexpended balances from the Bureau of Reclamation Working Capital Fund: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That the amount authorized for Indian municipal, rural, and industrial water features by section 10 of Public Law 89-108, as amended by section 8 of Public Law 99-294 and section 1701(b) of Public Law 102-575, is increased by $2,000,000 (October 1997 prices): *Provided further*, That the Secretary of the Interior is directed to use not to exceed $3,600,000 of funds appropriated herein as the Bureau of Reclamation share for completion of the McCall Area Wastewater Reclamation and Reuse, Idaho, project authorized in Public Law 105-62 and described in PN-FONSI-96-05: *Provided further*, That the Secretary of the Interior is directed to use not to exceed $200,000 of funds appropriated herein to provide technical assistance in a study of measures to increase the efficiency of existing water systems developed to serve sugar cane plantations and surrounding communities in the State of Hawaii: *Provided further*, That the Secretary of the Interior shall waive the scheduled annual payments for fiscal years 1998 and 1999 under section 208 of Public Law 100-202 (101 Stat. 1329-118).

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $12,000,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a-422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $38,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $39,500,000 to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575.

CALIFORNIA BAY-DELTA ECOSYSTEM RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of the Interior and other participating Federal agencies in carrying out the California Bay-Delta Environmental Enhancement and Water Security Act consistent with plans to be approved by the Secretary of the Interior, in consultation with such Federal agencies, $65,000,000, to remain available until expended, of which such amounts as may be necessary to conform with such plans shall be transferred to appropriate accounts of such Federal agencies: *Provided*, That such funds may be obligated only as non-Federal sources provide their share in accordance with the cost-sharing agreement required under section 102(d) of such Act: *Provided further*, That such funds may be obligated prior to the completion of a final programmatic environmental impact statement only if: (1) consistent with 40 CFR 1506.1(c); and (2) used for purposes that the Secretary finds are of sufficiently high priority to warrant such an expenditure.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $48,000,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed six passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of 22 passenger motor vehicles for replacement only, $786,854,000, to remain available until October 1, 2000, of which not less than $3,860,000 shall be available for solar building technology research, not less than $72,966,000 shall be available for photovoltaic energy systems, not less than $21,617,500 shall be available for solar thermal energy systems (of which not less than $3,000,000 shall be available for the dish/engine field verification initiative), not less than $35,750,000 shall be available for power systems in biomass/biofuels energy systems, not less than $41,083,500 shall be available for transportation in biomass/biofuels energy systems (of which not less than $3,000,000 shall be available to fund the Consortium for Plant Biotechnology Research), not less than $38,265,000 shall be available for wind energy systems, not less than $4,000,000 shall be available for the renewable energy production incentive program, not less than $7,000,000 shall be available for solar program support, not less than $5,087,500 shall be available for the international solar energy program, not less than $680,000 shall be available for solar technology transfer, not less than $5,000,000 shall be available for the National Renewable Energy Laboratory, not less than $31,250,000 shall be available for geothermal technology development, not less than $5,000,000 shall be available for the Federal building/Remote power initiative, not less than $16,325,500 shall be available for program direction, not to exceed $25,000 may be used for official reception and representation expenses for transparency activities and of which not to exceed $1,500,000 may be used to pay a portion of the expenses necessary to meet the United States' annual obligations of membership in the Nuclear Energy Agency.

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, $424,600,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $200,000,000, to be derived from the Fund, to remain available until expended: *Provided*, That $30,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of 15 passenger motor vehicles for replacement only, $2,676,560,000, to remain available until expended: *Provided*, That $7,600,000 of the unobligated balances originally available for Superconducting Super Collider termination activities shall be made available for other activities under this heading: *Provided further*, That $500,000 of the unobligated balances may be applied to the identification of trace element isotopes in environmental samples at the University of Nevada Las Vegas.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $190,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund; of which not to exceed $4,875,000 may be provided to the State of Nevada solely to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982; and of which not to exceed $5,540,000 may be provided to affected local governments, as defined in Public Law 97–425, to conduct appropriate activities pursuant to the Act: *Provided*, That the distribution of the funds to the units of local government shall be determined by the Department of Energy: *Provided further*, That the funds shall be made available to the units of local government by direct payment: *Provided further*, That within ninety days of the completion of each Federal fiscal year, each local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97–425. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $238,539,000, to remain available until expended: *Provided*, That moneys received by the Department for miscellaneous revenues estimated to total $136,530,000 in fiscal year 1999 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $102,009,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $27,500,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; the purchase of one fixed wing aircraft; and the purchase of passenger motor vehicles (not to exceed 32 for replacement only, and one bus), $4,445,700,000, to remain available until expended: *Provided*, That funding for any ballistic missile defense program undertaken by the Department of Energy for the Department of Defense shall be provided by the Department of Defense according to procedures established for Work for Others by the Department of Energy.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 3 new sedans and 6 for replacement only, of which 3 are sedans, 2 are buses, and one is an ambulance), $4,293,403,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, $1,048,240,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental restoration and waste management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), $241,857,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,658,160,000, to remain available until expended: *Provided*, That of the amount appropriated herein $5,000,000 shall be available for the joint U.S.-Russian development of a passively safe advanced reactor technology to dispose of Russian excess weapons derived plutonium: *Provided further*, That $56,700,000 appropriated herein is to procure plutonium disposition services and to begin Title I design for a mixed-oxide fuel fabrication facility: *Provided further*, That such funds shall not be available except as necessary to implement a bilateral program with the Russian Federation to convert to non-weapons forms and dispose of excess weapons plutonium in accordance with which the United States will at no time convert to non-weapons forms quantities of excess weapons plutonium greater than those converted to non-weapons forms by the Russian Federation: *Provided further*, That of the amount appropriated herein $30,000,000 is to be available for the Initiatives for Proliferation Prevention program: *Provided further*, That of the amount appropriated herein $30,000,000 shall be available for the purpose of implementing the "nuclear cities" initiative pursuant to the discussions of March 1998 between the Vice President of the United States and the Prime Minister of the Russian Federation and between the United States Secretary of Energy and the Minister of Atomic Energy of the Russian Federation.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $185,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For capital assets acquisition, $5,000,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1999, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities

and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $8,500,000, to remain available until expended; in addition, notwithstanding 31 U.S.C. 3302, not to exceed $28,000,000 in reimbursements of which $20,000,000 is for transmission wheeling and ancillary services and $8,000,000 is for power purchases at the Richard B. Russell Project, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $26,000,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,200,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $215,435,000, to remain available until expended, of which $206,222,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, $5,036,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $1,010,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $168,898,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $168,898,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1999 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than $0.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award a management and operating contract unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 302. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award, amend, or modify a contract in a manner that deviates from the Federal Acquisition Regulation, unless the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 303. None of the funds appropriated by this Act or any prior appropriations Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy;

under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 304. None of the funds appropriated by this Act or any prior appropriations Act may be used to augment the $40,000,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 305. None of the funds appropriated by this Act or any prior appropriations Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

SEC. 306. None of the funds appropriated by this Act or any prior appropriations Act may be used to decrease the concentration of radioactive contamination in waste so that such waste complies with the waste acceptance criteria for the Waste Isolation Pilot Plant.

SEC. 307. CHANGE OF NAME OF THE OFFICE OF ENERGY RESEARCH. (a) IN GENERAL.—Section 209 of the Department of Energy Organization Act (42 U.S.C. 7139) is amended—

(1) in the section heading, by striking "ENERGY RESEARCH" and inserting "SCIENCE RESEARCH"; and

(2) in subsection (a), by striking "Energy Research" and inserting "Science Research".

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The table of contents in the first section of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended by striking the item relating to section 209 and inserting the following:

"Section 209. Office of Science Research.".

(2) REFERENCES IN OTHER LAW.—Each of the following is amended by striking "Energy Research" and inserting "Science Research":

(A) The item relating to the Director, Office of Energy Research, Department of Energy in section 5315 of title 5, United States Code.

(B) Section 2902(b)(6) of title 10, United States Code.

(C) Section 406(h)(2)(A)(v) of the Public Health Service Act (42 U.S.C. 284a(h)(2)(A)(v)).

(D) Sections 3167(3) and 3168 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d(3), 7381e).

(E) Paragraphs (1) and (2) of section 224(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10204(b)).

(F) Section 2203(b)(3)(A)(i) of the Energy Policy Act of 1992 (42 U.S.C. 13503(b)(3)(A)(i)).

SEC. 308. MAINTENANCE OF SECURITY AT DOE URANIUM ENRICHMENT PLANTS.—Section 3107(h) of the USEC Privatization Act (42 U.S.C. 2297h–5(h)) is amended in paragraph (1), by striking "an adequate number of" and inserting "all"; and by inserting the following paragraph:

"(2) FUNDING.—The Secretary of Energy shall reimburse a contractor or subcontractor for the costs of providing security to a gaseous diffusion plant as required to comply with the guidelines referred to in paragraph (1).".

SEC. 309. In order to facilitate administrative operations and promote sales of Federal power, upon request of a joint operating entity, the Administrator of the Bonneville Power Administration shall sell, pursuant to section 5(b)(1) of Public Law 96–501, as amended, 94 Stat. 2697, 16 U.S.C. 839c, at wholesale to such joint operating entity electric power for the purpose of meeting the firm power loads of regional public bodies and cooperatives that are members or participants of the joint operating entity: *Provided*, That the term "joint operating entity" means an entity that is lawfully organized under state law as a public body or cooperative by, and whose members or participants include only, two or more public bodies or cooperatives which are customers of the Administrator.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 310. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 311. OFFSETTING REDUCTIONS. Each amount made available under the headings "NON-DEFENSE ENVIRONMENTAL MANAGEMENT", "URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND", "SCIENCE", and "DEPARTMENTAL ADMINISTRATION" under the heading "ENERGY PROGRAMS" and "CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)" under the heading "POWER MARKETING ADMINISTRATIONS" is reduced by 1.586516988447 percent.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $67,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses as authorized pursuant to this Act, $20,000,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $17,500,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $466,000,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $17,000,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to State governments, foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $416,000,000 in fiscal year 1999 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That of the amount appropriated herein, $33,000,000 shall be available only for agreement State oversight, international activities, the generic decommissioning management program, regulatory support to agreement States, the small entity program, the nonprofit educational program, and other Federal agency programs, and shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to State governments, foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1999 appropriation estimated at not more than $50,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $4,800,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House of Representatives and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1999 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $2,600,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TENNESSEE VALLEY AUTHORITY

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, $70,000,000, to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of title 18, United States Code.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—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, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. None of the funds made available in this Act may be provided by contract or by grant (including a grant of funds to be available for student aid) to any institution of higher education, or subelement thereof, that is currently ineligible for contracts and grants pursuant to section 514 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (as contained in section 101(e) of division A of Public Law 104-208; 110 Stat. 3009-270).

SEC. 504. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with a contractor that is subject to the reporting requirement set forth in subsection (d) of section 4212 of title 38, United States Code, but has not submitted the most recent report required by such subsection.

SEC. 505. None of the funds made available in this Act to pay the salary of any officer or employee of the Department of the Interior may be used for the Animas-La Plata Project, in Colorado and New Mexico, except for: (1) activities required to comply with the applicable provisions of current law; and (2) continuation of activities pursuant to the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100-585).

SEC. 506. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program—Alternative Repayment Plan" and the "SJVDP—Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal Reclamation law.

SEC. 507. Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

SEC. 508. None of the funds made available in this or any other Act may be used to restart the High Flux Beam Reactor.

TITLE VI

DENALI COMMISSION

SEC. 601. SHORT TITLE. This title may be cited as the "Denali Commission Act of 1998".

SEC. 602. FINDINGS. The Congress finds that—

(1) vast regions of the State of Alaska, while abundant in natural resources and rich in potential, trail the rest of the Nation in economic growth;

(2) roughly two-thirds of the land and associated natural resources within Alaska are owned by the Federal Government;

(3) many Alaska communities do not have access to potable water which often results in disease, and in some cases death;

(4) the primary means of sewage disposal in some Alaska communities continues to open sewage lagoons, which can result in outbreaks of hepatitis, meningitis, particularly among young children;

(5) power costs are as much as ten times higher in some areas of Alaska than in the lower 48 states, which thwarts economic development;

(6) bulk fuel storage tanks built by the Federal Government in many Alaska communities do not comply with the Oil Pollution Act of 1990, could, therefore, be required to be closed, are used to store heating oil critical to survival, and that Alaska communities presently have no way to upgrade or replace the tanks;

(7) the majority of Alaska communities have essential infrastructure needs which presently cannot be met;

(8) the lack of infrastructure and economic opportunities in Alaska communities has resulted in disproportionately high Federal costs for welfare assistance, unemployment assistance, food stamps, heating oil, and other Federal programs in Alaska; and

(9) by addressing infrastructure needs and promoting economic development, the reliance of Alaska communities on Federal assistance and the cost to the Federal Government of such assistance could be significantly reduced.

SEC. 603. PURPOSE. It is the purpose of this Act to assist Alaska in addressing its special problems, to develop its infrastructure and utilities, to promote its economic development in rural communities by utilizing the markets, technical support, and other resources of urban areas, and to establish a framework for joint Federal and State efforts toward providing basic facilities essential to its growth and attacking its common problems.

SEC. 604. DENALI COMMISSION. (a) ESTABLISHMENT.—There is hereby established the Denali Commission which shall be composed of one Federal member appointed by the President with the advice and consent of the Senate, one State member appointed by the Governor after consultation with the Alaska Federation of Natives, the President of the University of Alaska or a designee, the President of the Alaska Chamber of Commerce, and the Executive Director of the Alaska Municipal League. The Federal member shall be compensated by the Federal government at level III of the Executive Schedule of subchapter II of chapter 53 of title V, United States Code.

(b) CHAIRMAN; DECISIONS.—The Federal member shall be the Chairman of the Denali Commission. Decisions by the Denali Commission shall require the affirmative vote of the Chairman and at least two of the other members of the Commission. With respect to matters that come before the Commission, the Chairman may inform Federal departments and agencies having an interest in the subject matter as appropriate.

(c) FUNCTIONS.—The Denali Commission, in consultation with the Governor of Alaska, shall develop a statewide, comprehensive plan for economic and infrastructure development, establish priorities, approve project and grant proposals, and administer funds appropriated to the Commission. It shall solicit project proposals to modernize infrastructure from local governments and other organizations. The Commission is authorized to adopt rules and regulations governing its conduct, appoint and fix compensation of staff to assist the Commission, accept and use gifts or donations, and enter into and perform contracts, leases, or cooperative agreements. Administrative expenses of the Commission shall be paid by the Federal Government and may not exceed 5 percent of any funds appropriated under this Act. The Commission and its grantees shall maintain accurate and complete records which shall be available for audit and examination by the Comptroller General or his designee. The Commission shall submit an annual report six months after the conclusion of the fiscal year which shall be submitted to the President, the Chairmen of the House and Senate Appropriations Committees, and the Governor of Alaska.

(d) SPECIAL FUNCTIONS.—

(1) RURAL UTILITIES.—In carrying out its other functions, the Denali Commission should provide assistance as appropriate and seek to avoid duplication and to complement the water and wastewater programs under section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) and under section 303 of the Safe Drinking Water Act Amendments of 1996 (33 U.S.C. 1263a).

(2) BULK FUEL TANKS.—The Denali Commission, in consultation with the Commandant of the United States Coast Guard, shall develop a program to provide for the repair or replacement of bulk fuel storage tanks in Alaska which are not in compliance with Federal law, including the Oil Pollution Act of 1990, or State law.

SEC. 605. INSPECTOR GENERAL. Section 8G of the Inspector General Act of 1978, as amended (5 U.S.C. appendix 3 section 8G) is amended in subsection (a)(2) thereof by adding after "the Corporation for Public Broadcasting", "the Denali Commission,".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to the Denali Commission to carry out this Act and for necessary expenses including staff, $20,000,000 in fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2003.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1999".

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2727, AS MODIFIED

Mr. DOMENICI. Mr. President, I ask unanimous consent that amendment No. 2727 previously agreed to be modified with the changes now at the desk. We made an error in where we put a number and we are just correcting it to what it ought to be.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

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

The amendment (No. 2727), as modified, is as follows:

On page 21, line 19: strike "$456,700,000, to remain available until expended." and insert "$424,600,000, to remain available until expended.

ENERGY SUPPLY

On page 21, line 2 strike "motor vehicles for replacement only, $699,836,000, to re-" and insert "motor vehicles for replacement only, $727,836,000, to re-".

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate receives from the House of Representatives the companion bill to S. 2138, the Senate immediately proceed to its consideration; that all after the enacting clause be stricken; that the text of S. 2138 as passed be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed; that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses thereon, and the Chair be authorized to appoint the following conferees on the part of the Senate: Senators DOMENICI, COCHRAN, GORTON, MCCONNELL, BENNETT, BURNS, CRAIG, STEVENS, REID, BYRD, HOLLINGS, MURRAY, KOHL, DORGAN, and INOUYE; and that the foregoing occur without any intervening action or debate.

I further ask unanimous consent that the bill, S. 2138, not be engrossed and it remain at the desk pending receipt of the House-passed companion bill; that upon passage of the House companion bill by the Senate, the passage of S. 2138 be vitiated, and the bill be indefinitely postponed.

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

Mr. DOMENICI. I thank the Chair.

Mr. REID. Mr. President, I want to take just a minute to express my appreciation for the work of the chairman of the subcommittee. We have worked hard to get the bill passed. It is now passed.

I also have expressed on the record on a number of occasions what a pleasant arrangement the senior Senator from New Mexico and I have on this legislation. I reiterate that. I also want to express my appreciation for the hard work done by Senator DOMENICI's staff, Alex Flint, the majority clerk, David Gwaltney, who handled the water project, which is very large and significant in this bill. They are very professional and work very hard. The taxpayers get more than their money's worth from these gentlemen.

I also express publicly my appreciation for Greg Daines, minority clerk,

who worked very hard on this legislation for months, getting it to the point where we now are. I have a very important congressional fellow who has worked with me on this legislation and others, Bob Perret, who has done an outstanding job.

Also, I want to express my appreciation to Lashawnda Leftwich, who is the staff assistant to Mr. Flint, the majority clerk in this matter, and also Liz Blevins, the staff assistant to the minority clerk. We have, I think, a good team, a good group of people here who have worked very hard together. Again, I express my appreciation to the chairman of the subcommittee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. This is a good bill we passed. It has a lot of interesting and needed policy decisions, projects and programs. We will have a very difficult conference with the House because they have some noticeably different priorities, especially when it comes to spending more money on water projects than we were able to spend. There will be less on research on DOE's nondefense research projects. But, overall, I am most particularly pleased with the nuclear part of this bill, for nuclear research, which we have five or six more new nuclear research projects, three that the President asked for, three that we asked for.

You know, the United States is very much behind the world on matters of nuclear power and nuclear science and nuclear engineering. Frankly, the world is moving in that direction. We were the beginners. We were the ones who started it. We were heralded as the world's most knowledgeable and efficient, and we are going to play some catchup, but catch up we will do, in the next decade, because nuclear power and nuclear energy will come back in the world. Whether America makes policy decisions sufficiently to give it a chance or not, only time will tell. But some decisions of the past 20 years, with reference to nuclear activities, have been about as inconsistent with what is happening in the world as anything anyone could imagine, based on wrong premises, expecting action in the world that never occurred.

Those things are going to have to be debated. A few of them start to move here. But, over the long run, there will be very significant debate about what happens to nuclear power and nuclear activities in the United States.

Right alongside that, while all that is going on that I have described, be it negative or however one would categorize it, clearly the Science-Based Stockpile Stewardship, which we are using in lieu of any further underground testing to protect our nuclear arsenal and make sure it is safe and trustworthy, is generating some of the most exciting new physics and science of anything going on in the world. Indeed, our great scientists and engineers are producing instrumentation, computerization, and new methods of looking inside of nuclear bombs to see what is really going on so we can replace the right parts, since we do not make any new ones. This is all very exciting and is adding a great dimension of science activity while a very valuable thing is being done for our country. Expensive it may be, but the right thing, without question, it is.

With that, more will be said during the year on those issues. I thank, in conclusion, my ranking member, Senator REID. I believe between us we not only work well together but I think we have helped each other make this bill a better bill. For that, I am very grateful to the Senator from Nevada, and I thank him very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

AGRICULTURE RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now begin consideration of Calendar No. 409, S. 2159, the agriculture appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBB. Mr. President, reserving the right to object, and I don't intend to object, but I just wanted my colleagues to be put on notice about my concerns with this bill. I appreciate the work of my two Senate colleagues who developed this bill, and my concerns about this bill actually fall with what is not included in the bill, rather than what is in the bill.

Mr. President, we have a very serious problem at the USDA that no one seems to be very interested in solving. As some of you may know, there are a number of minority farmers who filed discrimination complaints with the USDA back in the 1980's and were told that the USDA was on the case. In fact, they weren't and didn't intend to be. After the statute of limitations passed for these farmers to file their discrimination complaints in a court of law, the USDA acknowledged that they never investigated or attempted to resolve these complaints. Since the statute of limitations has now passed for a number of these farmers, these farmers have been left with no remedy for the alleged acts of discrimination they suffered, all because of the inaction of the USDA. It seems to me we ought to address that matter at the earliest possible opportunity.

Mr. President, many here may also be aware of several provisions which took effect with the enactment of the 1996 Farm bill which have resulted in the denial of credit to farmers, based on a write-down of a previous loan. This has a particularly disproportionate effect on minority farmers, even though in a number of cases it was the USDA that encouraged the individuals to take a write-down. This body added language to the Emergency Supplemental earlier this year which addressed this problem. However, that language was taken out in a conference with the House. It would seem to me that the least we could do here is to add that language to this bill.

In sum, Mr. President, I do not object to proceeding with this bill, but I want to work with the Senator from Mississippi and the Senator from Arkansas to see if we can address these issues in this bill.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 1999.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Mississippi.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that the following Appropriations Committee staff members and fellow and intern be granted floor privileges during the consideration of this bill, S. 2159, and during any votes that may occur in relation thereto: Rebecca Davies, Martha Scott Poindexter, Rachelle Graves, Cornelia Tietka and Haywood Hamilton.

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

Mr. COCHRAN. Mr. President, I am pleased to present for the Senate's consideration S. 2159, the Fiscal Year 1999 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies appropriations bill. This bill provides fiscal year 1999 funding for all programs and activities of the United States Department of Agriculture—with the exception of the Forest Service—the Food and Drug Administration, the Commodity Futures Trading Commission, and expenses and payments of the farm credit system.

As reported, the bill recommends total new budget authority for fiscal year 1999 of $56.8 billion. This is $7.0 billion more than the fiscal year 1998 enacted level, and $740 million less than the President's fiscal year 1999 budget request.

Changes in mandatory funding requirements account for the overall increase from the fiscal year 1998 enacted level, principally reflecting lower estimated Food Stamp and higher Child Nutrition program expenses, along

with a $7.6 billion increase in the required payment to reimburse the Commodity Credit Corporation for net realized losses.

Including Congressional budget scorekeeping adjustments and prior-year spending actions, this bill recommends total discretionary spending of $13.715 billion in budget authority and $14.080 billion in outlays for fiscal year 1999. These amounts are consistent with the Subcommittee's discretionary spending allocations.

Let me take a few minutes first to summarize the bill's major funding recommendations.

For the Food Safety and Inspection Service, appropriations of $605 million are recommended, $16 million more than the fiscal year 1998 level. These additional funds are necessary to maintain the current inspection system and to continue to implement the Hazardous Analysis and Critical Control Point meat and poultry inspection system.

For farm credit programs, the bill funds an estimated $2.4 billion total loan program level, including $489 million for farm ownership loans and $1.8 billion for farm operating loans.

Total funding of $922 million is recommended for the Farm Service Agency, $11 million more than the 1998 level. Increased funding is provided to maintain non-Federal staff years at the level requested in the budget, preventing reductions beyond those already planned.

For agriculture research, education, and extension activities, the bill provides total appropriations of $1.7 billion. Included in this amount is a reduction from fiscal year 1998 of $35.2 million for Agricultural Research Service buildings and facilities, a $24 million increase for research activities of the ARS, and a $12 million increase in funding for the Cooperative State Research, Education, and Extension Service, which includes a 3-percent increase in base formula funds.

For USDA conservation programs, total funding of $792 million is provided, $5 million more than the 1998 level. This includes $638 million for conservation operations, $101 million for watershed and flood prevention operations, and $34 million for the resource conservation and development program.

USDA's Foreign Agriculture Service is funded at a level of $136 million. In addition, a total program level of $1.1 billion is recommended for the Public Law 480 program, including $221 million for Title I, $837 million for Title II, and $30 million for Title III of the program.

The bill also provides a total program level of $2.2 billion for rural economic and community development programs. Included in this amount is $700 million for the Rural Community Advancement Program, an increase of $48 million from the fiscal year 1998 level; and a total $1.5 billion program level for rural electric and telecommunications loans, $92 million more than the 1998 level.

The Committee has devoted adequate resources to those programs which provide affordable, safe, and decent housing for low-income individuals and families living in rural America.

Estimated rural housing loan authorizations funded by this bill total $4.3 billion, a $65 million increase from the fiscal year 1998 appropriations level. Included in this amount is $1.0 billion in section 502 low-income housing direct loans and $129 million in section 515 rental housing loans.

In addition, $583 million is recommended for the rental assistance program. This is the same as the budget request level and $42 million more than the 1998 appropriation.

Over 65 percent of the bill's total funding, $37 billion, is provided for USDA's domestic food assistance programs. This includes $9.2 billion for child nutrition programs; $3.9 billion for WIC, including $15 million for the farmers' market nutrition program; $141 million for commodity assistance; and $23.8 billion for the food stamp program.

For those independent agencies funded by the bill, the Committee provides total appropriations of $1.0 billion. Included in this amount is $61 million for the Commodity Futures Trading Commission, and $953 million for the Food and Drug Administration (FDA). Total appropriations recommended for the FDA are $27 million more than the 1998 level, reflecting the full increase requested in the budget for FDA rental payments and an additional $4 million more than the request level for buildings and facilities. In addition, the bill makes available $132 million in Prescription Drug User Fee Act collections, $15 million more than the fiscal year 1998 level.

I would like to point out to my colleagues that the discretionary spending allocations for this bill are approximately $200 million in budget authority and outlays below a freeze at the 1998 levels. To provide the selected increases I just cited and to maintain funding for essential farm, housing, and rural development programs, several mandatory funding restrictions are included in the bill. Modest limitations are imposed on Food Stamp program commodity purchases and on acreage enrollments in the Wetlands Reserve Program, and restrictions are imposed on fiscal year 1999 funding for the Conservation Farm Option Program and the Fund for Rural America.

In the case of the Fund for Rural America, it was a choice between providing adequate appropriations for research and rural development—the increases in funding recommended for agriculture research and rural development, including $48 million for the Rural Community Advancement program and $24 million for ARS research—or allowing the Administration to decide how to spend funds for selected rural development and agriculture research purposes.

I also want to remind my colleagues that the President's budget for programs and activities under this Subcommittee's jurisdiction assumes new user fees will be enacted and generate a net total of over $650 million in collections to offset the discretionary spending increases proposed by the President. While relying on savings from new user fees and other legislative proposals may allow the President to claim discretionary spending levels which conform with those set forth in the bipartisan budget agreement, appropriations cannot be reduced until these legislative proposals are acted on by Congress and enacted into law.

However, that is not the case and this bill assumes none of the user fee savings proposed in the budget. Consequently, the savings assumed in the President's budget are not available to this Committee to offset the discretionary spending increases and new initiatives proposed by the Administration. Many of these proposals have merit and are ones I might support. However, this Committee must comply with the discretionary spending levels in the Bipartisan Budget Agreement and we have had to make some difficult decisions as a result. We have worked hard to maintain funding for the programs and activities funded by this bill as close to the 1998 program levels as possible, providing increases necessary to maintain essential personnel levels and to meet increased subsidy costs where necessary to sustain 1998 loan levels.

Also, despite recent reports, food safety continues to be a high priority of this Committee. The bill recommended to the Senate provides the funds necessary to ensure that American consumers continue to have the safest food in the world. This bill makes no reductions in appropriations for USDA and FDA food safety activities. In fact, the bill continues the enhanced levels provided last year for activities defined to be part of the Administration's food safety initiatives. This includes the additional $24 million for FDA food safety initiatives and $9 million for USDA food safety initiatives provided for fiscal year 1998. In addition, the bill includes $3.6 million of the increase requested in the fiscal year 1999 budget for USDA food safety initiatives. Not included in the President's food safety initiatives but equally important to the continued safety of our nation's food supply is based funding for the Food Safety and Inspection Service. This bill provides fiscal year 1999 appropriations of $605 million for the Food Safety and Inspection Service

(FSIS), $455 million more than the Administration's requested level and $16 million more than the 1998 level. With the appropriations for FSIS inspection activities included, this bill recommends total appropriations of $806.3 million for FDA and USDA food safety activities for fiscal year 1999, as compared to the President's $380.6 million appropriations request. This does not include enhanced funding of $50.7 million for FDA food safety initiatives which the President proposes be funded through new user fees.

Mr. President, in closing, I remind Senators that this will be the last time that my good friend from Arkansas and the distinguished ranking member of the Subcommittee, Senator BUMPERS, will manage this appropriations bill. Senator BUMPERS has been a valued member of the Appropriations Committee for the past 20 years and of this Subcommittee for the past thirteen years. The work of the Subcommittee reflects his intimate knowledge of the programs and activities. Senator BUMPERS has been an advocate of American agriculture and a proponent of programs to improve the quality of life and help bring jobs to rural areas. His many contributions to this process and this bill will continue on after his retirement from the Senate, but his leadership and participation in the work of the Committee in the future will be missed, particularly by this Senator.

Included in this bill is a general provision to designate the United States National Rice Germplasm Evaluation and Enhancement Center in Stuttgart, Arkansas, the "Dale Bumpers National Rice Research Center." The Senator from Arkansas has been an effective advocate of agricultural research and is the father of this ARS research center. I believe it is most appropriate to name this facility in his honor.

Mr. President, I thank the distinguished ranking member of the subcommittee, Senator BUMPERS, as well as all other Members of the Subcommittee for their support and cooperation in putting this bill together.

Mr. President, I believe the bill represents a balanced and responsible set of funding recommendations within the limited resources available to the subcommittee. I ask my colleagues to give it their favorable consideration.

Mr. President, I urge Senators to notice in our bill some important efforts to contrast the process that we followed to appropriate these funds with the proposal the President made when he submitted his budget request for the Department of Agriculture and related agencies.

A great deal of attention has been called to the President's request for additional funding of so-called new initiatives in certain areas covered by this bill. To propose these new funding levels, these so-called new initiatives, the President has had to assume that funds would be generated for those purposes by the enactment by the Congress of user fees. These cover Food Safety and Inspection Service activities. They also cover Food and Drug Administration activities.

The Congress has not enacted these user fees, and there is no expectation that Congress will through the legislative committees that have jurisdiction of these subjects. Therefore, that has led to the appearance that the committee, in its action to bring this bill to the floor, has not appropriated funds that the President has requested for these so-called new initiatives and additional spending programs.

We have not been able to accommodate the President's request because the allocation of funds to this subcommittee is insufficient to cover both the funding of the programs that we have had to fund in the bill, the continuing programs of research and extension and education which I have described so far, many of which are above the President's requested level, but the additional funds that he presumed would be available to this committee from user fees are not available to the committee, and therefore, for some accounts, it may appear that the committee is not funding those activities at the levels the President promised to secure the funding.

I think that explanation will serve to alleviate some concerns that I have heard expressed. One was expressed in the meeting of our full committee when this bill was under consideration, that we were going to put in jeopardy in some way, by having the funding levels that we had for food safety, the safety of school lunch food that is consumed by students at school. We have actually increased the programs that help safeguard the food supply well over and above what the President had requested.

He has suggested that funds be allocated to some so-called new initiatives, but he didn't request that we have inspectors in our poultry and meatpacking plants, as we have to have under current law, to inspect those processes and those plants to be sure that the food is packaged and processed in a way that is safe and will result in wholesome, nutritious food supplies for our country. We funded that. We have actually increased the funding above last year's levels, so that we wouldn't have to close any of these plants or shut them down for any periods of time that would be required if we had not come up with this funding.

I assure Senators that we have taken great care to make sure that the funds are there for this next fiscal year for these food safety programs, including the so-called HACCP program, the new program that has been under development for the last several years in which this committee has cooperated to fund, so that it can bring to the challenge of food safety the latest in technologies and understanding and information so that we don't have to worry that we are not doing enough to help protect the food that is consumed in the United States.

I must say, too, that I think our producers and those who work to bring us this food supply have to be given great credit for the success they have had in producing a reasonably priced, wholesome, nutritious food supply for our country and, beyond that, millions and billions of dollars in excess of what we need in our country for export in the world marketplace.

Senators will also know that one of the areas of emphasis in this legislation is the funding of programs to help make sure that our exporters and our farmers are treated fairly in the international marketplace, that we continue to endeavor to break down barriers to fair trade for American agriculture products.

This morning, we had an opportunity to meet with representatives of a number of national farm organizations who were here in the Capitol to discuss the problems in certain sectors of agriculture in certain regions of this country. The meeting was actually convened by Senator CONRAD BURNS of Montana and Senator PAT ROBERTS of Kansas. The majority leader was President—was present—he may be President, not yet; he may be President later. Senator DICK LUGAR, the chairman of the Senate Agriculture Committee, was present.

We had 12 or 14 Senators involved in this meeting to find out what the suggestions were for helping to deal with some of these problems of low prices on the farm in certain areas and in certain commodities, and problems in trade, problems with tax laws that operate to the detriment of many who own and operate our Nation's farms. It was a good meeting.

I say to Senators that this bill addresses many of the problems that were identified in that meeting this morning. So it is responsive to the concerns that we hear.

We do need to do a more aggressive job to take up for our Nation's farmers both at home, in terms of regulations and tax policies which make it hard to operate or more expensive, and in terms of trade policies and national initiatives, to be sure that we have an opportunity to sell what we produce in the international marketplace at competitive prices, so there can be profit in agriculture and we can continue to reap the benefit in our country and our economy, in all aspects of our economy that are related and involved with agriculture, of a healthy, vibrant agriculture economy.

We have all heard how many jobs depend upon our farmers, how many people are in the processing businesses,

the value-added processing of food products, the transportation, the inputs that go into the farming operations in every rural community and every State in this great Nation. It is a huge business enterprise. And it deserves the sensitive support of the policymakers in Washington and a department of agriculture that cares when there is a problem on the farm and moves quickly to try to deal with it.

I think this legislation is consistent with those aims and those goals and those interests that we all have here in the Senate. I am hopeful that Senators will review the bill and give it their full support. And I hope Senators who have suggestions for changes in the bill will come to the floor and present those suggestions, and we will consider them in a very careful and sympathetic way.

We just as soon there not be any amendments. We think this is a good bill. We hope Senators will agree with us. We do have some committee amendments, and we have recommendations that have been cleared on both sides of the aisle for changes in the bill after the bill was considered in our committee.

At this time, Mr. President, I ask unanimous consent that a table comparing the committee's recommendations for fiscal year 1999 to the fiscal year 1998 levels and the President's fiscal year 1999 budget estimates be printed in the RECORD.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
TITLE I—AGRICULTURAL PROGRAMS					
Production, Processing, and Marketing					
Office of the Secretary	$2,836,000	$2,941,000	$2,836,000		−$105,000
Executive Operations:					
Chief Economist	5,048,000	5,823,000	5,048,000		−775,000
Commission on 21st Century Production Agriculture		350,000			−350,000
National Appeals Division	11,718,000	13,297,000	11,718,000		−1,579,000
Office of Budget and Program Analysis	5,986,000	6,045,000	5,986,000		−59,000
Office of Chief Information Officer	4,773,000	7,222,000	5,551,000	+$778,000	−1,671,000
Total, Executive Operations	27,525,000	32,737,000	28,303,000	+778,000	−4,434,000
Office of the Chief Financial Officer	4,283,000	4,562,000	4,283,000		−279,000
Office of the Assistant Secretary for Administration	613,000	636,000	613,000		−23,000
Agriculture buildings and facilities and rental payments	131,085,000	147,689,000	137,184,000	+6,099,000	−10,505,000
Payments to GSA	(98,600,000)	(108,057,000)	(108,057,000)	(+9,457,000)	
Building operations and maintenance	(24,785,000)	(24,127,000)	(24,127,000)	(−658,000)	
Repairs, renovations, and construction	(5,000,000)	(15,505,000)	(5,000,000)		(−10,505,000)
Relocation expenses	(2,700,000)			(−2,700,000)	
Hazardous waste management	15,700,000	15,700,000	15,700,000		
Departmental administration	29,231,000	32,168,000	27,034,000	−2,197,000	−5,134,000
Outreach for socially disadvantaged farmers	3,000,000	10,000,000	3,000,000		−7,000,000
Office of the Assistant Secretary for Congressional Relations	3,668,000	3,814,000	3,668,000		−146,000
Office of Communications	8,138,000	8,319,000	8,138,000		−181,000
Office of the Inspector General	63,128,000	87,689,000	63,128,000		−24,561,000
Office of the General Counsel	28,759,000	30,446,000	28,759,000		−1,687,000
Office of the Under Secretary for Research, Education and Economics	540,000	560,000	540,000		−20,000
Economic Research Service	71,604,000	55,839,000	53,109,000	−18,495,000	−2,730,000
National Agricultural Statistics Service	118,048,000	107,190,000	103,964,000	−14,084,000	−3,226,000
Census of Agriculture	(36,327,000)	(23,741,000)	(23,599,000)	(−12,728,000)	(−142,000)
Agricultural Research Service	744,382,000	776,828,000	767,921,000	+23,539,000	−8,907,000
Buildings and facilities	80,630,000	35,900,000	45,430,000	−35,200,000	+9,530,000
Total, Agricultural Research Service	825,012,000	812,728,000	813,351,000	−11,661,000	+623,000
Cooperative State Research, Education, and Extension Service:					
Research and education activities	431,410,000	412,589,000	434,782,000	+3,372,000	+22,193,000
Native Americans Institutions Endowment Fund	(4,600,000)	(4,600,000)	(4,600,000)		
Extension Activities	423,376,000	418,651,000	432,181,000	+8,805,000	+13,530,000
Total, Cooperative State Research, Education, and Extension Service	854,786,000	831,240,000	866,963,000	+12,177,000	+35,723,000
Office of the Assistant Secretary for Marketing and Regulatory Programs	618,000	642,000	618,000		−24,000
Animal and Plant Health Inspection Service:					
Salaries and expenses	425,932,000	417,752,000	424,473,000	−1,459,000	+6,721,000
AQI user fees	(88,000,000)	(100,000,000)	(95,000,000)	(+7,000,000)	(−5,000,000)
Buildings and facilities	4,200,000	5,200,000	4,200,000		−1,000,000
Total, Animal and Plant Health Inspection Service	430,132,000	422,952,000	428,673,000	−1,459,000	+5,721,000
Agricultural Marketing Service:					
Marketing Services	46,567,000	58,469,000	45,567,000	−1,000,000	−12,902,000
New user fees	(4,000,000)	(4,000,000)	(4,000,000)		
(Limitation on administrative expenses, from fees collected)	(59,521,000)	(60,730,000)	(59,521,000)		(−1,209,000)
Funds for strengthening markets, income, and supply (transfer from section 32)	10,690,000	10,998,000	10,998,000	+308,000	
Payments to states and possessions	1,200,000	1,200,000	1,200,000		
Total, Agricultural Marketing Service	58,457,000	70,667,000	57,765,000	−692,000	−12,902,000
Grain Inspection, Packers and Stockyards Administration	25,390,000	11,797,000	26,390,000	+1,000,000	+14,593,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(43,092,000)	(42,557,000)	(42,557,000)	(−535,000)	
Office of the Under Secretary for Food Safety	446,000	598,000	446,000		−152,000
Food Safety and Inspection Service	588,761,000	149,566,000	605,149,000	+16,388,000	+455,583,000
Lab accreditation fees [1]	(1,000,000)	(1,000,000)	(1,000,000)		
Total, Production, Processing, and Marketing	3,291,760,000	2,840,480,000	3,279,614,000	−12,146,000	+439,134,000
Farm Assistance Programs					
Office of the Under Secretary for Farm and Foreign Agricultural Services	572,000	597,000	572,000		−25,000
Farm Service Agency:					
Salaries and expenses	699,579,000	723,478,000	710,842,000	+11,263,000	−12,636,000
(Transfer from export loans)	(589,000)	(672,000)	(589,000)		(−83,000)
(Transfer from Public Law 480)	(815,000)	(845,000)	(815,000)		(−30,000)
(Transfer from ACIF)	(209,861,000)	(227,673,000)	(209,861,000)		(−17,812,000)
Total, salaries and expenses	(910,844,000)	(952,668,000)	(922,107,000)	(+11,263,000)	(−30,561,000)
State mediation grants	2,000,000	4,000,000	2,000,000		−2,000,000
Dairy indemnity program	550,000	450,000	450,000	−100,000	
Total, Farm Service Agency	702,129,000	727,928,000	713,292,000	+11,163,000	−14,636,000
Agricultural Credit Insurance Fund Program Account:					
Loan authorizations:					
Farm ownership loans:					
Direct	(78,320,000)	(85,000,000)	(63,872,000)	(−14,448,000)	(−21,128,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999—Continued

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
Guaranteed	(425,000,000)	(425,031,000)	(425,000,000)		(−31,000)
Subtotal	(503,320,000)	(510,031,000)	(488,872,000)	(−14,448,000)	(−21,159,000)
Farm operating loans:					
Direct	(565,000,000)	(500,000,000)	(560,472,000)	(−4,528,000)	(+60,472,000)
Guaranteed unsubsidized	(992,906,000)	(1,700,000,000)	(992,906,000)		(−707,094,000)
Guaranteed subsidized	(235,000,000)	(200,000,000)	(235,000,000)		(+35,000,000)
Subtotal	(1,792,906,000)	(2,400,000,000)	(1,788,378,000)	(−4,528,000)	(−611,622,000)
Indian tribe land acquisition loans	(1,000,000)	(1,003,000)	(1,000,000)		(−3,000)
Emergency disaster loans	(25,000,000)	(25,000,000)	(25,000,000)		
Boll weevil eradication loans	(53,467,000)	(30,000,000)	(40,000,000)	(−13,467,000)	(+10,000,000)
Credit sales of acquired property	(25,000,000)	(25,000,000)	(25,000,000)		
Total, Loan authorizations	(2,400,693,000)	(2,991,034,000)	(2,368,250,000)	(−32,443,000)	(−622,784,000)
Loan subsidies:					
Farm ownership loans:					
Direct	8,329,000	12,725,000	9,562,000	+1,233,000	−3,163,000
Guaranteed	16,407,000	6,758,000	6,758,000	−9,649,000	
Subtotal	24,736,000	19,483,000	16,320,000	−8,416,000	−3,163,000
Farm operating loans:					
Direct	36,823,000	34,150,000	38,280,000	+1,457,000	+4,130,000
Guaranteed unsubsidized	11,617,000	19,720,000	11,518,000	−99,000	−8,202,000
Guaranteed subsidized	22,654,000	17,480,000	20,539,000	−2,115,000	+3,059,000
Subtotal	71,094,000	71,350,000	70,337,000	−757,000	−1,013,000
Indian tribe land acquisition	132,000	153,000	153,000	+21,000	
Emergency disaster loans	6,008,000	5,900,000	5,900,000	−108,000	
Boll weevil loans subsidy	472,000	432,000	576,000	+104,000	+144,000
Credit sales of acquired property	3,255,000	3,260,000	3,260,000	+5,000	
Total, Loan subsidies	105,697,000	100,578,000	96,546,000	−9,151,000	−4,032,000
ACIF expenses:					
Salaries and expense (transfer to FSA)	209,861,000	227,673,000	209,861,000		−17,812,000
Administrative expenses	10,000,000	10,000,000	10,000,000		
Total, ACIF expenses	219,861,000	237,673,000	219,861,000		−17,812,000
Total, Agricultural Credit Insurance Fund	325,558,000	338,251,000	316,407,000	−9,151,000	−21,844,000
(Loan authorization)	(2,400,693,000)	(2,991,034,000)	(2,368,250,000)	(−32,443,000)	(−622,784,000)
Total, Farm Service Agency	1,027,687,000	1,066,179,000	1,029,699,000	+2,012,000	−36,480,000
Risk Management Agency:					
Administrative and operating expenses	64,000,000	66,000,000	64,000,000		−2,000,000
Sales commission of agents	188,571,000			−188,571,000	
Total, Risk Management Agency	252,571,000	66,000,000	64,000,000	−188,571,000	−2,000,000
Total, Farm Assistance Programs	1,280,830,000	1,132,776,000	1,094,271,000	−186,559,000	−38,505,000
Corporations					
Federal Crop Insurance Corporation: Federal Crop Insurance Corporation fund	1,584,135,000	1,504,036,000	1,504,036,000	−80,099,000	
Commodity Credit Corporation Fund:					
Reimbursement for net realized losses	783,507,000	8,439,000,000	8,439,000,000	+7,655,493,000	
Operations and maintenance for hazardous waste management (limitation on administrative expenses)	(5,000,000)	(5,000,000)	(5,000,000)		
Total, Corporations	2,367,642,000	9,943,036,000	9,943,036,000	+7,575,394,000	
Total, title I, Agricultural Programs	6,940,232,000	13,916,292,000	14,316,921,000	+7,376,689,000	+400,629,000
(By transfer)	(211,265,000)	(229,190,000)	(211,265,000)		(−17,925,000)
(Loan authorization)	(2,400,693,000)	(2,991,034,000)	(2,368,250,000)	(−32,443,000)	(−622,784,000)
(Limitation on administrative expenses)	(107,613,000)	(108,287,000)	(107,078,000)	(−535,000)	(−1,209,000)
TITLE II—CONSERVATION PROGRAMS					
Office of the Under Secretary for Natural Resources and Environment	693,000	719,000	693,000		−26,000
Natural Resources Conservation Service:					
Conservation operations	632,853,000	742,231,000	638,231,000	+5,378,000	−104,000,000
Watershed surveys and planning [2]	11,190,000		11,190,000		+11,190,000
Watershed and flood prevention operations [3]	101,036,000	49,000,000	101,036,000		+52,036,000
Resource conservation and development	34,377,000	34,377,000	34,377,000		
Forestry incentives program	6,325,000		6,325,000		+6,325,000
Total, Natural Resources Conservation Service	785,781,000	825,608,000	791,159,000	+5,378,000	−34,449,000
Total, title II, Conservation Programs	786,474,000	826,327,000	791,852,000	+5,378,000	−34,475,000
TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS					
Office of the Under Secretary for Rural Development	588,000	611,000	588,000		−23,000
Rural community advancement program	652,197,000	715,172,000	700,201,000	+48,004,000	−14,971,000
Delta region economic development program		26,000,000			−26,000,000
Rural Housing Service:					
Rural Housing Insurance Fund Program Account:					
Loan authorizations:					
Single family (sec. 502)	(1,000,000,000)	(1,000,000,000)	(1,000,000,000)		
Unsubsidized guaranteed	(3,000,000,000)	(3,000,000,000)	(3,000,000,000)		
Housing repair (sec. 504)	(30,000,000)	(25,001,000)	(30,000,000)		(+4,999,000)
Farm labor (sec. 514)	(15,000,000)	(32,108,000)	(15,758,000)	(+758,000)	(−16,350,000)
Rental housing (sec. 515)	(128,640,000)	(100,000,000)	(128,640,000)		(+28,640,000)
Multi-family housing guarantees (sec. 538)	(19,700,000)	(150,000,000)	(75,000,000)	(+55,300,000)	(−75,000,000)
Site loans (sec. 524)	(600,000)	(5,000,000)	(5,000,000)	(+4,400,000)	
Self-help housing land development fund	(587,000)	(5,000,000)	(5,000,000)	(+4,413,000)	
Credit sales of acquired property	(25,000,000)	(30,007,000)	(25,000,000)		(−5,007,000)
Total, Loan authorizations	(4,219,527,000)	(4,347,116,000)	(4,284,398,000)	(+64,871,000)	(−62,718,000)
Loan subsidies:					
Single family (sec. 502)	128,100,000	118,200,000	118,200,000	−9,900,000	
Unsubsidized guaranteed	6,900,000	2,700,000	2,700,000	−4,200,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999—Continued

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
Housing repair (sec. 504)	10,300,000	8,808,000	10,569,000	+269,000	+1,761,000
Multi-family housing guarantees (sec. 538)	1,200,000	3,480,000	1,740,000	+540,000	−1,740,000
Farm labor (sec. 514)	7,388,000	16,706,000	8,199,000	+811,000	−8,507,000
Rental housing (sec. 515)	68,745,000	48,250,000	62,069,000	−6,676,000	+13,819,000
Site loans (sec. 524)		16,500	16,000	+16,000	−500
Credit sales of acquired property	3,492,000	4,672,000	3,826,000	+334,000	−846,000
Self-help housing land development fund	17,000	282,000	282,000	+265,000	
Total, Loan subsidies	226,142,000	203,114,500	207,601,000	−18,541,000	+4,486,500
RHIF administrative expenses (transfer to RHS)	354,785,000	367,857,000	360,785,000	+6,000,000	−7,072,000
Rental assistance program:					
(Sec. 521)	535,497,000	577,497,000	577,497,000	+42,000,000	
(Sec. 502(c)(5)(D))	5,900,000	5,900,000	5,900,000		
Total, Rental assistance program	541,397,000	583,397,000	583,397,000	+42,000,000	
Total, Rural Housing Insurance Fund	1,122,324,000	1,154,368,500	1,151,783,000	+29,459,000	−2,585,500
(Loan authorization)	(4,219,527,000)	(4,347,116,000)	(4,284,398,000)	(+64,871,000)	(−62,718,000)
Mutual and self-help housing grants	26,000,000	26,000,000	26,000,000		
Rural community fire protection grants	2,000,000			−2,000,000	
Rural housing assistance grants	45,720,000	46,900,000	45,720,000		−1,180,000
Subtotal, grants and payments	73,720,000	72,900,000	71,720,000	−2,000,000	−1,180,000
RHS expenses:					
Salaries and expenses	57,958,000	60,978,000	60,978,000	+3,020,000	
(Transfer from RHIF)	(354,785,000)	(367,857,000)	(360,785,000)	(+6,000,000)	(−7,072,000)
Total, RHS expenses	(412,743,000)	(428,835,000)	(421,763,000)	(+9,020,000)	(−7,072,000)
Total, Rural Housing Service	1,254,002,000	1,288,246,500	1,284,481,000	+30,479,000	−3,765,500
(Loan authorization)	(4,219,527,000)	(4,347,116,000)	(4,284,398,000)	(+64,871,000)	(−62,718,000)
Rural Business-Cooperative Service:					
Rural Development Loan Fund Program Account:					
(Loan authorization)	(35,000,000)	(35,000,000)	(33,000,000)	(−2,000,000)	(−2,000,000)
Loan subsidy	16,888,000	17,622,000	16,615,000	−273,000	−1,007,000
Administrative expenses (transfer to RBCS)	3,482,000	3,547,000	3,482,000		−65,000
Total, Rural Development Loan Fund	20,370,000	21,169,000	20,097,000	−273,000	−1,072,000
Rural Economic Development Loans Program Account:					
(Loan authorization)	(25,000,000)	(15,000,000)	(23,000,000)	(−2,000,000)	(+8,000,000)
Direct subsidy	5,978,000	3,783,000	5,801,000	−177,000	+2,018,000
Rural cooperative development grants	3,000,000	5,700,000	3,000,000		−2,700,000
RBCS expenses:					
Salaries and expenses	25,680,000	26,396,000	25,680,000		−716,000
(Transfer from RDLFP)	(3,482,000)	(3,547,000)	(3,482,000)		(−65,000)
Total, RBCS expenses	(29,162,000)	(29,943,000)	(29,162,000)		(−781,000)
Total, Rural Business-Cooperative Service	55,028,000	57,048,000	54,578,000	−450,000	−2,470,000
(By transfer)	(3,482,000)	(3,547,000)	(3,482,000)		(−65,000)
(Loan authorization)	(60,000,000)	(50,000,000)	(56,000,000)	(−4,000,000)	(+6,000,000)
Alternative Agricultural Research and Commercialization Revolving Fund	7,000,000	10,000,000	7,000,000		−3,000,000
Rural Utilities Service:					
Rural Electrification and Telecommunications Loans Program Account:					
Loan authorizations:					
Direct loans:					
Electric 5 percent	(125,000,000)	(55,000,000)	(71,500,000)	(−53,500,000)	(+16,500,000)
Telecommunications 5 percent	(75,000,000)	(50,000,000)	(75,000,000)		(+25,000,000)
Subtotal	(200,000,000)	(105,000,000)	(146,500,000)	(−53,500,000)	(+41,500,000)
Treasury rates: Telecommunications	(300,000,000)	(300,000,000)	(250,000,000)	(−50,000,000)	(−50,000,000)
Muni-rate: Electric	(500,000,000)	(250,000,000)	(295,000,000)	(−205,000,000)	(+45,000,000)
FFB loans:					
Electric, regular	(300,000,000)	(300,000,000)	(700,000,000)	(+400,000,000)	(+400,000,000)
Telecommunications	(120,000,000)	(120,000,000)	(120,000,000)		
Subtotal	(420,000,000)	(420,000,000)	(820,000,000)	(+400,000,000)	(+400,000,000)
Total, Loan authorizations	(1,420,000,000)	(1,075,000,000)	(1,511,500,000)	(+91,500,000)	(+436,500,000)
Loan subsidies:					
Direct loans:					
Electric 5 percent	9,325,000	7,172,000	9,325,000		+2,153,000
Telecommunications 5 percent	2,940,000	4,895,000	7,342,000	+4,402,000	+2,447,000
Subtotal	12,265,000	12,067,000	16,667,000	+4,402,000	+4,600,000
Treasury rates: Telecommunications	60,000	810,000	675,000	+615,000	−135,000
Muni-rate: Electric	21,100,000	21,900,000	25,842,000	+4,742,000	+3,942,000
FFB loans: Electric, regular	2,760,000			−2,760,000	
Total, Loan subsidies	36,185,000	34,777,000	43,184,000	+6,999,000	+8,407,000
RETLP administrative expenses (transfer to RUS)	29,982,000	32,000,000	29,982,000		−2,018,000
Total, Rural Electrification and Telecommunications Loans Program Account	66,167,000	66,777,000	73,166,000	+6,999,000	+6,389,000
(Loan authorization)	(1,420,000,000)	(1,075,000,000)	(1,511,500,000)	(+91,500,000)	(+436,500,000)
Rural Telephone Bank Program Account:					
(Loan authorization)	(175,000,000)	(175,000,000)	(140,000,000)	(−35,000,000)	(−35,000,000)
Direct loan subsidy	3,710,000	4,637,500	3,710,000		−927,500
RTP administrative expenses (transfer to RUS)	3,000,000	3,000,000	3,000,000		
Total	6,710,000	7,637,500	6,710,000		−927,500
Distance learning and telemedicine program:					
(Loan authorization)	(150,000,000)	(150,000,000)	(150,000,000)		
Direct loan subsidy	30,000	180,000	180,000	+150,000	
Grants	12,500,000	15,000,000	12,500,000		−2,500,000
Total	12,530,000	15,180,000	12,680,000	+150,000	−2,500,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999—Continued

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
RUS expenses:					
Salaries and expenses	33,000,000	33,445,000	33,000,000		−445,000
(Transfer from RETLP)	(29,982,000)	(32,000,000)	(29,982,000)		(−2,018,000)
(Transfer from RTP)	(3,000,000)	(3,000,000)	(3,000,000)		
Total, RUS expenses	(65,982,000)	(68,445,000)	(65,982,000)		(−2,463,000)
Total, Rural Utilities Service	118,407,000	123,039,500	125,556,000	+7,149,000	+2,516,500
(By transfer)	(32,982,000)	(35,000,000)	(32,982,000)		(−2,018,000)
(Loan authorization)	(1,745,000,000)	(1,400,000,000)	(1,801,500,000)	(+56,500,000)	(+401,500,000)
Total, title III, Rural Economic and Community Development Programs	2,087,222,000	2,220,117,000	2,172,404,000	+85,182,000	−47,713,000
(By transfer)	(391,249,000)	(406,404,000)	(397,249,000)	(+6,000,000)	(−9,155,000)
(Loan authorization)	(6,024,527,000)	(5,797,116,000)	(6,141,898,000)	(+117,371,000)	(+344,782,000)
TITLE IV—DOMESTIC FOOD PROGRAMS					
Office of the Under Secretary for Food, Nutrition and Consumer Services	554,000	573,000	554,000		−19,000
Food and Consumer Service:					
Child nutrition programs	2,612,675,000	3,887,703,000	4,171,747,000	+1,559,072,000	+284,044,000
Discretionary spending	3,750,000	10,000,000		−3,750,000	−10,000,000
Transfer from section 32	5,151,391,000	5,332,194,000	5,048,150,000	−103,241,000	−284,044,000
Total, Child nutrition programs	7,767,816,000	9,229,897,000	9,219,897,000	+1,452,081,000	−10,000,000
Special supplemental nutrition program for women, infants, and children (WIC)	3,924,000,000	4,081,000,000	3,924,000,000		−157,000,000
Reserve		(20,000,000)			(−20,000,000)
Food stamp program:					
Expenses	23,736,479,000	22,365,806,000	22,365,806,000	−1,370,673,000	
Reserve	100,000,000	1,000,000,000	100,000,000		−900,000,000
Nutrition assistance for Puerto Rico	1,204,000,000	1,236,000,000	1,236,000,000	+32,000,000	
The emergency food assistance program	100,000,000	100,000,000	80,000,000	−20,000,000	−20,000,000
Total, Food stamp program	25,140,479,000	24,701,806,000	23,781,806,000	−1,358,673,000	−920,000,000
Commodity assistance program	141,000,000	317,081,000	141,000,000		−176,081,000
Food donations programs for selected groups:					
Needy family program	1,165,000		1,081,000	−84,000	+1,081,000
Elderly feeding program	140,000,000		140,000,000		+140,000,000
Total, Food donations programs [4]	141,165,000		141,081,000	−84,000	+141,081,000
Food program administration	107,505,000	111,848,000	109,069,000	+1,564,000	−2,779,000
Total, Food and Consumer Service	37,221,965,000	38,441,632,000	37,316,853,000	+94,888,000	−1,124,779,000
Total, title IV, Domestic Food Programs	37,222,519,000	38,442,205,000	37,317,407,000	+94,888,000	−1,124,798,000
TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS					
Foreign Agricultural Service and General Sales Manager:					
Appropriation	131,295,000	141,087,000	131,795,000	+500,000	−9,292,000
(Transfer from export loans)	(3,231,000)	(3,413,000)	(3,231,000)		(−182,000)
(Transfer from Public Law 480)	(1,035,000)	(1,093,000)	(1,035,000)		(−58,000)
Total, Foreign Agriculture Service and General	135,561,000	145,593,000	136,061,000	+500,000	−9,532,000
Public Law 480 Program and Grant Accounts:					
Title I—Credit sales:					
Program level	(244,508,000)	(111,558,000)	(221,083,000)	(−23,425,000)	(+109,525,000)
Direct loans	(226,900,000)	(102,163,000)	(203,475,000)	(−23,425,000)	(+101,312,000)
Ocean freight differential	17,608,000	9,395,000	17,608,000		+8,213,000
Title II—Commodities for disposition abroad:					
Program level	(837,000,000)	(837,000,000)	(837,000,000)		
Appropriation	837,000,000	837,000,000	837,000,000		
Title III—Commodity grants:					
Program level	(30,000,000)	(30,000,000)	(30,000,000)		
Appropriation	30,000,000	30,000,000	30,000,000		
Loan subsidies	176,596,000	88,667,000	176,596,000		+87,929,000
Salaries and expenses:					
General Sales Manager (transfer to FAS)	1,035,000	1,093,000	1,035,000		−58,000
Farm Service Agency (transfer to FSA)	815,000	845,000	815,000		−30,000
Subtotal	1,850,000	1,938,000	1,850,000		−88,000
Total, Public Law 480:					
Program level	(1,111,508,000)	(978,558,000)	(1,088,083,000)	(−23,425,000)	(+109,525,000)
Appropriation	1,063,054,000	967,000,000	1,063,054,000		+96,054,000
CCC Export Loans Program Account:					
Loan guarantees: Export credit	(5,500,000,000)			(−5,500,000,000)	
Loan subsidy	527,546,000			−527,546,000	
Emerging markets export credit	(200,000,000)			(−200,000,000)	
Salaries and expenses (Export Loans):					
General Sales Manager (transfer to FAS)	3,231,000	3,413,000	3,231,000		−182,000
Farm Service Agency (transfer to FSA)	589,000	672,000	589,000		−83,000
Total, CCC Export Loans Program Account	531,366,000	4,085,000	3,820,000	−527,546,000	−265,000
Total, title V, Foreign Assistance and Related Programs	1,725,715,000	1,112,172,000	1,198,669,000	−527,046,000	+86,497,000
(By transfer)	(4,266,000)	(4,506,000)	(4,266,000)		(−240,000)
TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION					
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Food and Drug Administration					
Salaries and expenses, direct appropriation	857,501,000	878,884,000	940,367,000	+82,866,000	+61,483,000
Prescription drug user fee act	(117,122,000)	(126,845,000)	(132,273,000)	(+15,151,000)	(+5,428,000)
Mammography clinics user fee	(13,966,000)	(14,385,000)	(14,385,000)	(+419,000)	
Subtotal, program level	(988,589,000)	(1,020,114,000)	(1,087,025,000)	(+98,436,000)	(+66,911,000)
Buildings and facilities	21,350,000	8,350,000	12,350,000	−9,000,000	+4,000,000
Rental payments (FDA)	46,294,000	82,866,000		−46,294,000	−82,866,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1998 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1999—Continued

Item	1998 appropriation	Budget estimate	Committee recommendation	Senate Committee recommendation compared with (+ or −)	
				1998 appropriation	Budget estimate
By transfer from PDUFA		(5,428,000)			(−5,428,000)
Subtotal, program level	(46,294,000)	(88,294,000)		(−46,294,000)	(−88,294,000)
Total, Food and Drug Administration	925,145,000	970,100,000	952,717,000	+27,572,000	−17,383,000
DEPARTMENT OF THE TREASURY					
Financial Management Service: Payments to the Farm Credit System Financial Assistance Corporation	7,728,000	2,565,000	2,565,000	−5,163,000	
INDEPENDENT AGENCIES					
Commodity Futures Trading Commission	58,101,000	63,360,000	61,000,000	+2,899,000	−2,360,000
Farm Credit Administration (limitation on administrative expenses)	(34,423,000)			(−34,423,000)	
Total, title VI, Related Agencies and Food and Drug Administration	990,974,000	1,036,025,000	1,016,282,000	+25,308,000	−19,743,000
TITLE VII—EMERGENCY APPROPRIATIONS					
DEPARTMENT OF AGRICULTURE					
Farm Service Agency					
Emergency conservation program	34,000,000			−34,000,000	
Tree assistance program	14,000,000			−14,000,000	
Agricultural Credit Insurance Fund Program Account:					
Emergency insured loans:					
Loan subsidy	21,000,000			−21,000,000	
(Loan authorization)	87,400,000			−87,400,000	
Total, Farm Service Agency	69,000,000			−69,000,000	
Commodity Credit Corporation					
Livestock disaster assistance fund	4,000,000			−4,000,000	
Dairy production indemnity assistance program	6,800,000			−6,800,000	
Total, Commodity Credit Corporation	10,800,000			−10,800,000	
Natural Resources Conservation Service					
Watershed and flood prevention operations	80,000,000			−80,000,000	
Total, title VII, Emergency appropriations	159,800,000			−159,800,000	
Grand total:					
New budget (obligational) authority	49,912,936,000	57,553,138,000	56,813,535,000	+6,900,599,000	−739,603,000
Appropriations	(49,753,136,000)	(57,553,138,000)	(56,813,535,000)	(+7,060,399,000)	(−739,603,000)
(By transfer)	(606,780,000)	(640,100,000)	(612,780,000)	(+6,000,000)	(−27,320,000)
(Loan authorization)	(14,012,620,000)	(8,788,150,000)	(8,510,148,000)	(−5,502,472,000)	(−278,002,000)
(Limitation on administrative expenses)	(142,036,000)	(108,287,000)	(107,078,000)	(−34,958,000)	(−1,209,000)
RECAPITULATION					
Title I—Agricultural programs	6,940,232,000	13,916,292,000	14,316,921,000	+7,376,689,000	+400,629,000
Title II—Conservation programs	786,474,000	826,327,000	791,852,000	+5,378,000	−34,475,000
Title III—Rural economic and community development programs	2,087,222,000	2,220,117,000	2,172,404,000	+85,182,000	−47,713,000
Title IV—Domestic food programs	37,222,519,000	38,442,205,000	37,317,407,000	+94,888,000	−1,124,798,000
Title V—Foreign assistance and related programs	1,725,715,000	1,112,172,000	1,198,669,000	−527,046,000	+86,497,000
Title VI—Related agencies and Food and Drug Administration	990,974,000	1,036,025,000	1,016,282,000	+25,308,000	−19,743,000
Total, new budget (obligational) authority	49,753,136,000	57,553,138,000	56,813,535,000	+7,060,399,000	−739,603,000

[1] In addition to appropriation.
[2] Budget proposes to fund this account under Conservation Operations.
[3] Budget proposes to fund technical assistance for WFPO under Conservation Operations.
[4] Budget proposes to include funding for these programs under the Commodity Assistance Program in fiscal year 1998.

Mr. COCHRAN. This is a revised comparative statement of new budget authority which corrects two errors in the "FY 1999 Estimates" column in the same table printed in the committee report that accompanies the bill.

Mr. President, I must also observe, before yielding the floor, that my good friend from Arkansas, who is the distinguished ranking Democrat on the subcommittee on agriculture appropriations, is helping manage this bill this year, and it will be his last opportunity to exercise this important responsibility.

He has chosen not to seek reelection in the State of Arkansas for another term in the Senate. And I must say that it pains me to contemplate going through the process of developing and helping to write an agriculture appropriations bill without his intelligent and thoughtful assistance. He has been a good friend to me since I have been in the Senate. We have worked closely together on a number of issues, not only in agriculture, in rural development, but in other areas as well.

I pointed out earlier in my statement that in recognition of his outstanding service for the people of Arkansas in the U.S. Senate, and particularly for his work on agriculture research issues, there is included in this bill a general provision to designate the U.S. National Rice Germplasm Evaluation and Enhancement Center in Stuttgart, AR, the "Dale Bumpers National Rice Research Center."

The distinguished Senator from Arkansas has been a very effective advocate of agriculture research funds for this ARS Research Center. I think he is the father of that center. I believe it is most appropriate to name this facility in his honor.

Also, I want to express my appreciation to him and the members of his staff, and the other members of the subcommittee on both sides of the aisle, for their assistance and support and cooperation in developing this legislation. I hope the Senate will approve it.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am most pleased to join my very good friend, Senator COCHRAN, in bringing this bill to the floor. I think that, considering the constraints that Senator COCHRAN—who is really the crafter of this bill—considering the constraints that he was operating under, this is a remarkable bill.

We were allocated, and even in the President's budget request, $1 billion less than we had last year. To try to craft a bill meeting the really mostly legitimate demands—or at least even funding or increased funding—under

that kind of a burden was extremely difficult. I did not interfere—tried not to interfere very much in Senator COCHRAN's work because he was already burdened heavily enough in trying to fit all the pieces of this mosaic together. But he deserves the praise and the accolades of every Member of this Senate for what I think is a remarkable achievement.

Mr. President, Senator COCHRAN has outlined the levels of funding provided in this bill for various functions and programs under the jurisdiction of this subcommittee and I will not repeat them. Let me simply say Senator COCHRAN and I have done the best we could with limited resources to maintain the activities at USDA, FDA, and other agencies that are so important to the American people.

I wish I could be equally as pleased with the budgetary hand with which this subcommittee has been dealt, but the reality is that a budget request filled with user fees, initiatives, and other issues coupled with a 302(b) allocation that reduced our available resources well below last year's levels has produced very hard choices for us. As the Washington Post pointed out in an editorial earlier this week related to the fact that our bill freezes the WIC program at last year's level, until the overall budgetary parameters affecting this subcommittee are adjusted, there is little this subcommittee can do. We can't provide more with less.

However, in my view, the bill before us, which Senator COCHRAN has crafted, makes the best of a bad situation. Would I suggest increases in certain programs if the resources were available? Of course I would and I believe Senator COCHRAN would agree with those increases. But it doesn't take a rocket scientist to conclude that when you have less to work with, something has to give. Unfortunately, this year is one in which avoiding the budget ax may itself be a victory.

We hear a lot these days about budget surpluses. We also hear a lot about how to spend those surpluses, such as providing tax cuts. We talk a lot about saving Social Security, but we still count those revenues coming into the Social Security Trust Fund as part of that glorious "surplus" which many are eager to divide up and share with their friends.

The other day, a group of people from a very poor part of the East Arkansas Delta were in office asking for help to reduce flooding in their communities. The flooding causes their septic tanks to back up, resulting in sewage floating down the streets of small rural communities and into the ditches throughout the county. When this bill was considered by the full committee, I explained this problem to Senator STEVENS and other members of the Appropriations Committee. Senator STEVENS and others pledged to help and I hope that we will be able to include an amendment to this bill that will provide necessary funds so these people in East Arkansas will have a few of the basic services that many of us take for granted. Still, this leaves Congress with the remaining problem of caps on domestic spending that is affecting the lives of everyday people all across this country.

The immediate future holds little promise for improvement. The Budget Act requires that the coming years will witness continuing declines in discretionary spending, which means the subcommittee's allocation will likely be less next year than this and Senator COCHRAN's headaches (not mine) will be even more severe than they have been these past few weeks. Having said all this, let me come back to the task at hand and simply state that Senator COCHRAN has done all excellent job in making the pieces fit into a very complex mosaic.

As I have suggested, the watchword for this year has been "maintain". This bill restores many of the worthwhile programs that were deleted in the President's budget request and even provides a sight increase in the formula base funds for research and extension activities that have been held steady for many years. Conservation and rural development programs are protected as best we can in spite of changes in loan subsidy rates that caused severe problems in maintaining last year's program levels. We protected rural water and sewer programs which are among the best investments the federal government makes. We were also able to maintain many of last year's program levels for rural housing programs.

The WIC program is expected to average more than 7 million participants in fiscal year 1998. This bill provides funds necessary to maintain that caseload. I wish we were able to provide a higher level, but limited resources have left few options. I am willing to work with Senator COCHRAN and other Senators to find ways to provide higher levels for important programs such as WIC if reasonable offsets or additional resources can be identified.

For years, so called "budget hawks" have been telling Congress to "cut the fat". For this subcommittee, the "fat" was eliminated a long, long time ago. Today, we are cutting into the "lean." These cuts hurt farmers and they hurt our agricultural research base which is needed to make possible the means for this planet to avoid global starvation in years to come. These cuts hurt small rural communities and they hurt children. They deprive our nation of a cutting edge in maintaining a place in global markets. They place our food and blood supply at risk and, quite simply, they harm America. This is certainly not the fault of Senator COCHRAN, but these problems have fallen in his lap, and mine, and on us all. I only hope that in years to come, those who would cut the "fat" out of these programs first explain where the "fat" is.

I also feel it is important to make a quick reference to an item in the bill that has long been near and dear to my heart as I know it is to Senator COCHRAN. For longer than we have shared a place in the United States Senate, Senator COCHRAN and I have shared a common state boundary along the banks of the mightiest river on the continent. One hundred years ago, the highest form of travel in this country was to take a ride on a Mississippi riverboat. Ten years ago, I sponsored legislation to create the Lower Mississippi River Delta Regional Commission. Sadly, the focus of this Commission was not to highlight the gilded days of luxurious steamboat travel, or the glorious setting in the lobby of Memphis' Peabody Hotel, where legend holds the Delta begins, but to reverse the tragic decline in economic and social prosperity that has resulted in harsh impoverishment up and down this mighty river.

Today, the Chairman of this Commission which we formed in 1988 now sits at a desk in the Oval Office of the White House. President Clinton submitted a budget amendment to this subcommittee to create a Delta Regional Commission based largely on the findings of the Lower Mississippi Delta Regional Commission and in the combined spirit of us all to provide a better life for the most hard pressed of our citizens. The President's request called for $26 million to establish and provide assistance to this worthy cause.

With the limited resources of this subcommittee, we were not able to create a new "agency" for the Delta, but we did provide the Secretary of Agriculture authority to work with local groups in the region to help them help themselves. USDA holds many programs important to the Delta such as rural housing, water and sewer programs, conservation, food assistance, research and education, and many, many more. This subcommittee, over the past several years, has provided funding for the Delta Teachers Academy which has been a highly successful program to improve educational opportunities in the region. The Delta Teachers Academy is an example of the progress in rural America that USDA can help foster. I am pleased that the President has added his voice to the call for rejuvenation of this region that two hundred years ago was the western border of our nation, but now lies at its heart.

In closing, I would be remiss not to state publicly my admiration for Senator COCHRAN and the honor I have enjoyed serving with him on this subcommittee. This is my last agriculture appropriations bill to be considered on the floor of the United States Senate,

but I will always cherish the friendship and warm memories of my colleagues.

Let me conclude by saying that I do not know of anybody in the Senate for whom I have a higher regard and more respect than I have for Senator COCHRAN. I was chairman of this subcommittee until the Republicans took over in 1995. Senator COCHRAN has chaired it since that time. He was my ranking member when I was chairman. And I daresay, with no reflection on any other chairman and ranking member of any of the subcommittees on appropriations, or I daresay any other committee of the Senate, I doubt that any of them have enjoyed better cooperation with each other than Senator COCHRAN and I have enjoyed, and that is based on the tremendous respect I have for his ability and his understanding of these programs. I concede he understands some of these agricultural programs a lot better than I do.

But having said all of that, Mr. President, I just say it has been a genuine joy to work with Senator COCHRAN. Let me say, again, there is no Member of the Senate for whom I have a higher regard and greater respect. It has been a great honor. I will miss times like this when we come before the Senate to present this bill. I will miss working with Senator COCHRAN on issues that we both care deeply about, but it is time for me to move on. I want to thank Senator COCHRAN for his always generous and laudable remarks that he made about me.

So with that, Mr. President, I hope that Senators who have amendments will come to the floor so we can dispose of this bill as expeditiously as possible. We did very well on the water and energy bill. I would like to think we could do as well on the ag bill. If Senators would come to the floor and offer their amendments, we will.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate go into a period of morning business for the purpose of my making a statement on an unrelated issue.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to speak as if in morning business.

Mr. BIDEN. I thank the President.

THE SEARCH FOR MODERN CHINA: THE PRESIDENT'S CHINA TRIP

Mr. BIDEN. Mr. President, President Clinton, as he prepares to depart for China, carries with him an obligation, which I am sure he will fulfill, to do his best to advance U.S. core interests with Beijing and to communicate the values of the American people directly to the Chinese people.

But what is also at stake, I think, is that there is a concomitant responsibility on the part of the U.S. Senate and the U.S. Congress to adhere to a practice that has been in place for the 25 years that I have been in the U.S. Senate; that is, when a President is abroad, for the Congress to refrain, if only temporarily, from acting on matters that would affect the country which the President is visiting.

There were a number of times when President Reagan was President, when President Nixon was President, when President Ford was President, and when President Bush was President that I had sharp disagreements with their foreign policy initiatives. But never once did I, nor can I remember any of us in either the Republican or the Democratic Party, vote on legislation that would directly affect and impact upon the relationship of the United States and the country which the President was visiting.

So I ask my Republican friends, in the spirit of bipartisanship in the conduct of American foreign policy, to refrain from offering amendments to the DOD bill, if it comes up, that are designed to sanction and/or publicly criticize China at the very moment the President of the United States will be in China. I hope that we could return to that period in our relationship when both parties adhered to that practice.

There is a list of at least 12—maybe as many as 20—China sanction amendments, some of which may very well be justified, that would be attached to, or attempted to be attached to, the defense bill, which I am told is likely to come up on Tuesday of next week.

I make a personal plea to my colleagues to return to the practice that has been honored here on the floor of the U.S. Senate of not engaging in legislative action that impacts upon, or can impact upon, the relationship with the country where the President of the United States, be he a Republican or Democrat, is presently in place. I will be sending a letter to all of my colleagues asking that they do that.

But to continue, Mr. President, the President's mission is not going to be an easy one any more than the first time President Nixon went to China, or President Bush, or any other President who has engaged China.

It comes amid a sometimes rancorous debate over China policy in this country, and the debate is totally appropriate, I might add. I am not suggesting there should not be a very serious debate, and I have no doubt, because of the consequences of the actions we will take as a Nation, it will likely get rancorous at some point.

I have myself asked this Congress to move into special secret session, a rare occurrence, not so many years ago to debate the extension of most-favored-nation status to China. I did so because of my concerns about Chinese proliferation activities, proliferation of missile and/or nuclear technology. And so I am not suggesting the debate will not be heated, and I am not suggesting it should not be thorough. I am not suggesting that it will not have political ramifications. That is all appropriate, normal and reasonable. But the President's mission is going to be made more difficult as a consequence of the debate that is underway.

There is no clear consensus in America, nor, in my view, no clear consensus in the Senate, on how to best advance American interests in the Far East. The Governments of China and the United States will not always see eye to eye, and while the people of the United States and the people of China have much in common—a love of family, a thirst for knowledge, and perhaps most importantly, a desire to see our children and grandchildren live in a world more peaceful and prosperous than our own—we also have profound differences that cannot be overlooked.

In his incisive history, entitled, "The Search for Modern China," Yale historian and prominent Chinese scholar Jonathan Spence writes that China is not yet truly a modern nation."

Spence defines a modern country as "one that is both integrated and receptive, fairly sure of its own identity, yet able to join others on equal terms in a quest for new markets, new technologies and new ideas." He concludes that the "search" for modern China is an ongoing act.

I think Spence is right, and the United States cannot afford to be a spectator in this drama. We need to be active on the world's stage, engaging China as it undergoes a period of extraordinary change.

What do we want? What is in our national interest? Good China policy begins with a clear articulation of U.S. interests, beamed directly to the highest levels of the Chinese Government.

There is virtually no debate in this country over our long-term objectives. Our interests are plain. We seek a more prosperous, open and democratic China, at peace with its neighbors, and respectful of international norms in the area of nonproliferation, human rights and trade.

There is considerable debate, however, about how best to achieve those objectives and whether they can all be achieved simultaneously or whether we will put one ahead of the other during this transition period.

There are some who are convinced that the best way to persuade China's leaders to bring their domestic and foreign policies in line with U.S. expectations is to punish them for each and

every misdeed—as perceived by us. This punitive approach, one which I think occasionally is appropriate, is well represented by a raft of Chinese bills passed by the House of Representatives last fall, many of which have been introduced as amendments that I have referenced earlier to the Defense Authorization Act.

Let me say that I share many of the concerns of my colleagues about the administration's handling of China policy. As I said on the Senate floor at this time last year, engagement is not a policy. Engagement is a means to an end. It is the substance of the engagement that matters.

But a "big stick" approach to China can hardly be called engagement any more than yielding to China on every issue can be called engagement.

This confrontational approach, or the "big stick" approach, flows from the absurd notion that China is unchanging and it will only behave responsibly when it is forced to do so.

I respectfully suggest and favor a more balanced approach. Obviously, I am being subjective in characterizing my approach as more balanced. And it is not really my approach; many share the same view I am about to articulate—a balanced approach that relies upon spelling out the rules of the road to China, inviting them to abide by them, and then monitoring their compliance with their pledges to us and the rest of the international community.

China aspires to be a great power. I welcome that aspiration because great powers live up to the great power obligation in the areas of nonproliferation, human rights and trade.

China has undergone an extraordinary change over the past 25 years, opening to the outside world and dramatically transforming its economic institutions and the tenor of its political discourse. China has evidenced increasing accommodation to international norms.

They have done so, for the most part, because they recognize their own interests dictate greater integration with the global economic markets and security regimes. We should encourage this trend, but we should not hesitate to communicate our concerns both publicly and privately when we think they deviate.

For instance, we should not hesitate to criticize China for its human rights violations. We should publicly encourage China to sign the International Covenant on Civil and Political Rights, and to incorporate its spirit directly into Chinese law.

I was very disappointed when the President decided not to condemn China for human rights violations before the United Nations Human Rights Commission in Geneva. If we are not going to criticize China's human rights violations in front of an international body specifically created to safeguard human rights standards, where are we willing to voice our concerns?

I am also disappointed that China continues to jam Radio Free Asia. With the support of my colleagues in the Senate and the House, I introduced legislation several years ago which created Radio Free Asia. RFA broadcasts reliable news directly to the people of China and Tibet, empowering them to hold their government accountable for its actions. But RFA is being jammed by the Chinese Government. I hope that President Clinton, when he travels to China, will tune in RFA, and if he can't find it on the radio, he should explain to his Chinese hosts that great powers do not restrict access of their people to information.

We can also do more to promote the rule of law in China, bringing the Chinese to this country to see how a truly independent judiciary functions and sending Americans to China to teach them how to create similar institutions there. The administration has requested $5 million for the Asia Foundation to launch a rule of law initiative in China. I support this initiative.

When all else fails, the United States should not hesitate to punish China by using carefully targeted multilateral sanctions. But this should be a last resort, not a reflex.

A wise man on the Foreign Relations Committee, the Senator from Indiana, has pointed out the dangers of an over reliance on ill-defined unilateral sanctions as an instrument of foreign policy.

We have an important role to play in the search for modern China. We can help it to its destination of modernization, or we can throw obstacles in its path. The upcoming summit presents an opportunity for the United States and China to try to bridge some of our differences, a chance to transform the issues from points of contention to examples of cooperation.

We should not expect the world from a single summit. But we can make some progress.

Perhaps no issue at the summit will be more important than that of nonproliferation. I said at the outset that we know clearly what our objectives should be for our policy, where we want a modern China to go. We don't have any misunderstanding of what we would like to see: China at peace with its neighbors, respecting international norms in the areas of nonproliferation, open trade, and human rights.

But at some point, as my dad would say, if everything is equally a high priority, then nothing is a priority. I believe that there is no more important issue at this moment in the history and our relationship with China than nonproliferation. The spread of weapons of mass destruction and the means to deliver them represents a clear and present danger to the security of both the United States and China. We need Chinese cooperation if we are to find ways to promote stability in south Asia, the Korean peninsula, and the Middle East.

China's historic track record in this area has been poor. Indeed, Pakistan probably would not possess the nuclear capacity it demonstrated late last month were it not for the Chinese assistance over the past decades. China cannot escape some responsibility for exacerbating south Asian tensions by engaging in policies that were seen as threatening to India's security.

But more recently, China appears to have undergone a sea change in its attitude. China has joined the Nuclear Non-Proliferation Treaty, the Comprehensive Test Ban Treaty, the Chemical Weapons Convention, the Biological Weapons Convention. China has also agreed to be bound by some, but not all, of the terms of the Missile Technology Control Regime prior to it joining that regime. And, while China's export laws still fall short of international norms, particularly in the area of missile technology, China has been responsive to the administration's interests where we have clearly articulated them.

Last fall, President Clinton secured a commitment from China not to extend any new cooperation to Iran's nuclear program. China has also pledged to halt all cruise missile exports to Iran in direct response to the urging of the U.S. Government. Moreover, China's initial response to nuclear tests on the subcontinent has been constructive thus far. China has avoided taking any steps which might exacerbate tensions or fuel a regional arms race.

There is more, however, that China as a great power should do. As a permanent member of the U.N. Security Council, China should join in an international diplomatic effort designed to identify the source of tensions in south Asia and foster dialog between India and Pakistan and between India and China. China should lead by example, by promoting greater transparency in arms exports, defense expenditures, and military exercises.

China, in my view, should join the Missile Technology Control Regime and agree to bring its export controls on dual-use items and missile-related technologies up to international standards. In addition, it should join the Nuclear Suppliers Group and develop comprehensive controls on all nuclear-related technologies. Taken together, these steps would not only contribute significantly to peace and stability in south Asia, they would also serve the interests of global nonproliferation.

The administration has accomplished much in the last 6 years: from the Nuclear Non-Proliferation Treaty to the Comprehensive Test Ban Treaty to the Chemical Weapons Convention, et cetera. I asked, today, Assistant Secretary Roth, who testified before the

Foreign Relations Committee, why that occurred. Was it merely the persuasiveness of the U.S. President? Was it because of the sticks as well as carrots that we have offered? Or, as this emerging modern power goes through a transformation, is it because they are finally determining on their own that it is in their own interest not to proliferate?

I cannot fathom how, as a political leader sitting in Beijing, I could conclude that the ability of Pakistan to launch a nuclear weapon on the back of a missile that I had provided to them could possibly enhance my security. I cannot understand how anyone in Beijing could conclude that an arms race between India and Pakistan, and the prospect of what we would call theater nuclear weapons being engaged, could possibly do anything other than damage my security as a Chinese leader. I cannot imagine how they could reach that conclusion. But they have, in the past, reached similar conclusions.

But I think what we are beginning to see, and it is presumptuous of me to say this about another country, but I think we are beginning to see the political maturation of a country. It is in its nascent stages, but they are coming to some of these conclusions, not merely because of what we do, not merely because of our urging, but because they begin to see it in their own naked self-interest. The only thing I have observed that causes China, in the recent past, to act against their own naked self-interest is if they are put in a position of being told they must do this or that.

So, although sanctions are appropriate in some circumstances, and stating our view of what constitutes great power behavior is always appropriate, the idea that sanctions are always appropriate when we disagree with China is very mistaken and counterproductive.

The stakes are high. Our success or failure in integrating China more fully into the community of nations, our success or failure at convincing China to live up to the international norms of behavior in the area of nonproliferation, our success or failure in helping to shape the emergence of modern China as a great power, will have profound effect, not only on the future of east Asia and south Asia, not only on the future of Europe, but on the entire world.

Mr. President, about 25 years ago Fox Butterfield, the New York Times bureau chief in Beijing, published a book entitled "China: Alive in the Bitter Sea." In it, Mr. Butterfield gave a moving account of the efforts of ordinary Chinese people to live under the often brutal authoritarian regime that existed at the time.

Today there remains much injustice in China, and the struggle of ordinary people to exercise their universally acknowledged human rights is fraught with peril. The outcome of that struggle will be central to the future of the "middle kingdom."

But the changes over the past 25 years have been so profound that those returning to China today for the first time since Deng Xiaoping opened the doors—and I went with Senators Javits and Church and others back in those early years of engagement—those who have gone back barely recognize China to be the same country.

Engagement, engagement with a purpose, can bring about changes we seek in China, including in areas of vital importance to our national security, but only if we are both patient and principled.

If we are swayed from our course by those who believe conflict with China is inevitable, or if we are lulled into a false sense of security by those who stand on this floor and confidently predict that China will automatically transform itself into a Jeffersonian democracy as it modernizes, then we will miss out on an opportunity to fulfill our role, as small as it may be, in the search for a modern China.

Mr. President, to conclude, the stakes are high. This is no time for the U.S. Senate—in this significant summer, at this moment when, if China concludes it wishes to devalue its currency, the situation in Asia could become much, much worse, when at the very moment when China is acting responsibly vis-a-vis Korea, we cause it to change its course of action; if at this moment we insist upon all of our agenda being met, we can do irreparable harm to our interests.

I yield the floor, Mr. President, with a final plea to my colleagues: Please, please, on this critical matter of the security interest of the United States of America, please revert to the tradition that has been time honored in this body. While a President of the United States is meeting with a head of state of another country, do not engage in activities, justified or not, that will sanction the country with which the President is at that moment negotiating. That is inappropriate behavior, in my opinion. That is not only partisanship, but it is against the naked self-interest of the United States, and I think it is reprehensible conduct.

I am confident my colleagues will ultimately do the right thing. We have plenty of time to act on, and I may even vote for, some of the proposals relating to the sanctioning of China that are contemplated in the upcoming bill. But, please look at America's interest first, look at the longstanding tradition of bipartisanship on this issue, and allow the President to conduct this major foreign policy foray on his own terms until he returns.

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

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that debate only be in order to the pending agriculture appropriations bill until the hour of 6:45 p.m. this evening.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

WORLD AFFAIRS

Mr. BUMPERS. Mr. President, I, first of all, compliment my distinguished colleague from Delaware, Senator BIDEN, for what I thought was a very compelling analysis of what our relationship with China is and what it should be and what the President ought to be doing in China in the way of engagement to improve our relationship.

I agree totally with everything he said. Right now, China, obviously, is not a democracy, though about 40 percent of her economy is private enterprise in the true sense of the word we cherish here.

We have found in the past that when nations begin to permit economic freedom, usually the economic benefits that come from that become highly desirable to the people, and then they begin to seek more freedom, more democracy. On the other hand, you can argue that political democracy and social freedom should come first and everything else will follow. I would like to believe that, but I believe in the case of China, where unbelievable changes have occurred in the last 20 years, the ordinary citizen of this country cannot even begin to fathom the dramatic changes in the culture, even in the political system, and the economy of China.

So I happen to come from the school of thought that believes that when people have economic freedom, political

freedom is more likely to ensue than vice versa. I understand all the arguments on human rights. And nobody is going to stand up, who is in his right mind, and say that China does not violate human rights. Of course they do. And I do not care what anybody says, under the best case scenario, you are not going to get the kind of democracy in China overnight that we enjoy in this country.

But I can tell you this. Engagement of China on these issues is going to be 10 times more beneficial to both their citizens and the world than our sitting back with a purist attitude saying that, "If you don't do all these things we tell you to do, then we're going to quit trading with each other and we're going to quit our dialog with each other. You go ahead and start shipping missiles to Iran. You go ahead and violate the chemical weapons ban which you signed in 1992. And go ahead and violate the test ban treaty which you signed in 1992." Who wants that? Who thinks that is a good idea?

I am not saying China would do it, but I am simply saying we are not going to bully a nation of 1.2 billion people. And I think our chances of bringing them into the mainstream are infinitely better if we engage them.

So, No. 1, I applaud the President for going to China. I have a little difficulty with the Tiananmen Square event. But if you wanted to sour the trip from the opening gun, just have the President go there with a precondition that, "I will not have any dialog with you in Tiananmen Square." He can turn right around and get on Air Force One and come home for all the good he is going to do.

Those are the realities, Mr. President. Whether we like them or not, those are the facts. And everybody who knows anything about human psychology knows what would happen if the President took that kind of a stance, which a lot of people in this body have urged him to take.

He should go there resolute on talking about human rights with the Chinese and engage them on it as strongly as he can. He should engage them on any suspected arms shipments or transfers of chemicals that we are concerned about. He should talk to them about all the violations of human rights. And he should ask them about the slave and prison labor. And he should ask them about forced abortions.

There are a lot of forces at work in this country, Mr. President. We are having a very difficult time in this country since the Soviet Union fell. For the last 50 years, politicians in this country have had a field day hating the Soviet Union. We all have. It was a bizarre situation. And the Soviet Union, while they were our allies in World War II, after World War II was over, we had a very—not tenuous—disastrous relationship with them.

And the only reason I make that point is, now that the Soviet Union no longer exists, we have been looking around for an enemy. We do not cope very well without somebody to hate, and China has been elected. You cannot justify $270 billion on defense expenditures unless you have a genuine, certified enemy. So there is a lot of that at work here.

I believe Eisenhower was absolutely right when he described the military-industrial complex as a real threat to the country. It is alive and well. I have always chastised President Eisenhower, whom I admired and thought he was a pretty good President, for not having made that military-industrial complex speech when he took office instead of when he left. We are all awfully courageous when we leave office.

But in any event, there are a lot of people who simply cannot accept China because it is communistic. Even though, as I said, 40 percent of their economy is in the free market sector, politically it still is a Communist Nation. And there is no such thing as real democracy in China.

Mr. President, there are people in this body who are going to vote against the most-favored-nation status of China because of China's treatment of Christian missionaries. I read an interesting story on that this week which pointed out there are 67 million Christians in China and the number is growing all the time. I do not really know how serious the discrimination allegation about religion is in China, but I will tell you, I suspect that it is exaggerated to some extent.

But you have these people who resent China's, at least, reluctance to allow all of these various religious missionaries, especially Christian missionaries, into their country. So they are not going to vote for most-favored-nation status.

And then there is, of course, this anti-Clinton segment. Some people have a very difficult time giving the President credit for anything. And so if they can make President Clinton look bad by going to China to consort with the same people Richard Nixon consorted with, if they can get any mileage out of that, they are going to take advantage of that. So you have that political faction working.

So, Mr. President, I think the President is doing the absolutely right thing. I think he is going to be extremely well prepared for his dialog with the Chinese leaders. I personally believe that the Chinese can have some influence in tranquilizing the hostility between India and Pakistan. And when I say "tranquilizing," I am talking about dampening their hostility toward each other ever so slightly.

Mr. President, I said the other day to the Arkansas Bar Association that I believe religious extremism in any form is dangerous to our Nation and to the world. And the dispute between Pakistan and India is essentially a religious dispute between the Hindus and the Moslems. And if you look around the world—you look in Bosnia, they are all ethnically the same, but you have Catholics and you have Christians and you have Moslems. The Serbs are Russian Orthodox and Christian; and Croatia is essentially Catholic; and Bosnia is essentially Moslem. That is a volatile mix. Something close to 100,000 or 200,000 people have died as a result of the hostilities generated to a large extent to those religious differences.

So if China can be a force in that part of the world to give the rest of us a little respite, a little better feeling about our ability to bring Pakistan and India together—I don't think it is unthinkable at all for a nuclear war to break out between those two nations; hostilities are intense—if China can do anything at all to "tranquilize" the situation, we ought to be bringing them right along and telling them "do everything you can."

I thought India's excuse for exploding a bomb, because they were afraid of China, was as transparent as Saran Wrap. China and India have always been enemies of a sort, but not nearly the intensity of the relationship between India and Pakistan, for example. In my opinion, they were looking for anything they could get ahold of to justify what they did, which is unforgivable.

When I think about the population of China, I was there in 1978, and the population was 800 million. The population of China since 1978 has grown by 400 million people—140 million more than there are in the United States—which brings me to the second part of this sermon.

Last night, I went downtown to receive a plaque from the Natural Resources Council which is an organization of 72 environmental groups. In my response, on a more serious note, I said I don't want to be the skunk at the lawn party, and I would like to think that I am a great environmentalist, but we talk about ozone depletion, we talk about global warming, we talk about building electric automobiles, and all of these things we are going to do to stop global warming from occurring. But the truth of the matter is we do not talk about the No. 1 environmental problem of the planet, and that is a population out of control.

When I was a young 18-year-old recruit in the Marine Corps in World War II, this Nation had 130 million people. So in that period of time, from the time I was a raw recruit in the Marine Corps until today, we have increased our population by 138 million—268 million, compared to 130 million. At that same time, we had 30 million vehicles in the United States; today, we have 200 million vehicles. Estimates are that by the year 2050 we will have 400 million vehicles. My commute time from

my home to the U.S. Senate in the 23½ years I have been here has increased by 12 minutes.

Today, we are taking 2.5 million acres of arable land that was previously used to grow food to feed ourselves and to export to a hungry world, out of cultivation every year and we are adding 2.5 million people to the population. You do not have to be a rocket scientist to understand that you have a train wreck coming. On top of that, our agricultural yields are becoming static. Soybean yields were up slightly last year, corn yields were flat; wheat yields that we have seen increase over the years are becoming static. We could, perhaps, put a lot more money into research and reverse that trend so that we get greater and greater yields, but isn't it amazing our priorities, when we spend $1.8 billion a year on agricultural research, and we spend $40 billion a year down at the Pentagon for them to make things explode louder.

Now, it is really tragic when you think about the problem of the population increase of the planet, not to say anything of the United States. By the year 2100, barring an epidemic or a pandemic, we are going to be standing shoulder to shoulder on this planet. Yes, people, by their very numbers, are polluters. We have to be fed. That means we use up our land. We have to be housed. That means we use up our resources to build houses. We have to be transported so we have to go in an automobile that puts a lot of noxious fumes into the atmosphere and uses up our resources at an exponential rate. On and on it goes.

When you start talking about the problems of the population increase of the planet and what it means for our grandchildren—it makes me shudder to think about it. I must say I take strong exception to those who hold up our foreign aid spending to all of the countries who have family planning programs, when every single country that has a family planning program shows the abortion rate goes down. But I don't want to get into the abortion debate either. I am simply saying you can shove this problem under the rug, which we have been doing a magnificent job of for the last many years, or you can face up to it as China has tried to do.

In 1978, when I was in China the last time, they had a family planning program going there. Since that time, it has worked partially in the big urban areas. It is not working in the rural areas. They still have a culture there that you have to have children to help you till the crops. You have to have children to help you do everything, so they keep having children.

Mrs. Bumpers, just came back from Africa. She was over there trying to help Africans immunize their children. She was in Zimbabwe and the Ivory Coast. She said it was the most exhilarating experience she ever had in her life, watching mothers bring their babies through the hot sands and dust, into these clinics, where they were having what they called national immunization days. She began to give polio doses herself. She said it was the most gratifying experience she had ever had.

She was amazed with some of the progress they are making in Africa. One of the things they have done on the Ivory Coast is cut the birth rate, with family planning, from six per woman to four.

Now, here is a relatively primitive country called the Ivory Coast in Africa, which seems to have a better grip on what the real problems of the world are than we have. There is more to that. I don't want to take any more time, Mr. President. I have said all I can say about what I consider to be the real problems. One of the frustrating things is—and I don't say this with any degree of acrimony or bitterness at all, and it has been a great honor to be one of the less than 1,800 people who ever served in the U.S. Senate, and I will leave here with a heart full of gratitude, hopefully strengthened by great relationships with many colleagues. But I am disenchanted, to some extent, about our inability and our unwillingness to deal with some of the real problems. We do a great job of dealing with the politics of problems, but we have a tough time facing up to the fact that our children are not being well educated.

I am dismayed when I think about the $50 billion or $60 billion surplus we are supposed to have at the end of this year and people are talking about tax cuts. I would not have any objection to that, Mr. President, if that tax cut went to the lower-income groups in this country who are still being relegated to last place. This is a personal opinion. One of the reasons the stock market has gone crazy in the last several years is because there is so much money floating around in this country, people have no choice but to invest it. They are not going to put it into T-bills when they can put it in Microsoft, or something else that will pay 20 to 30 percent, or even more, than a 6-percent bond will. But I can tell you that all of this money that exists in this country that people largely have made out of the stock market has not filtered down to the bottom 40 percent of the people in this country.

I would vote for another minimum wage increase because every statistic I have seen has shown that, No. 1, you don't lose jobs—the traditional argument made against it—and, No. 2, this country is not going to be what it ought to be unless we bring other people up. Every statistic I have seen in the last year is that the rich are still getting richer and the poor, by comparison, are getting poorer.

I would be hard-pressed to vote for a tax cut for the well-off when children are going to school all over Arkansas, being taught by teachers who go into teaching at an entry level of $20,000. Do you know what I think, Mr. President? I think teaching is the toughest job in America. I would rather clean the streets of Washington, DC, and carry garbage than teach school. One of the reasons I feel that way is because I married a schoolteacher and I know what they go through. It is the toughest job in the world. They go through 4 years of college and get a degree in education and go into the schools of my State at an entry level of $20,000. If they are lucky, the next year they will get a cost-of-living increase.

My daughter, who is my pride and joy, is with a law firm downtown. She is not going to teach for $25,000 or $30,000 a year, and she would be a magnificent teacher. There are people all over the country—men and women—who would be great teachers, who are not going into the teaching profession because it simply doesn't pay enough. When you compound the fact—if you agree with me that it is the toughest job on Earth—it surely doesn't pay enough.

I was doing an interview this afternoon with a prominent author here in Washington who is writing a book. We were talking about the American people and what is going on. There is something going on in this country that nobody really quite understands. I don't. I probably wasn't very helpful to him because I didn't have any brilliant analysis of what is going on in the country. But I said, "I think the disenchantment is more a result of the way people feel that the educational system is failing them than anything else." I also believe that television, which ought to be this magnificent medium of communicating and making our children so much smarter, is failing us miserably.

Mr. President, I have gone from China to population to schoolteaching in all my meanderings here. But I can tell you there isn't anything wrong with this country that setting our priorities straight would not cure. Until we have an educated electorate, and until we provide an education for every child in this country, not just an education at the elementary and secondary level, but at the college level, until we make the commitment that every kid in this country gets a college education, or at least is not denied a college education for lack of money, don't talk to me about tax cuts.

What makes a country great? What makes a country great is how well their people are educated and, therefore, how civil their people are to each other, what their conduct is. When I see people engaged in certain kinds of conduct you want to ask them, "Why are you doing that?" They do it because their parents or nobody else ever

told them not to. I could sit here and list all day long the things that are my favorite pet peeves. I am always saying to Betty, "I wonder why that kid did that." She says, "Because nobody ever told him better."

So Mr. President, I certainly am not giving up on this Nation. The people of this country are rhapsodic about one thing, and that is that we got our budget house in order. The fact that we have a surplus this year is nothing short of a miracle, and the people know it. But if we start spending it and squandering it instead of dealing with the problems we still have we will be back in trouble. The other day, Mr. President, you were in the Appropriations Committee when I made a short speech about what a tough time we had crafting this agriculture bill.

I said, "You know we don't have any money to do much of anything."

A couple of weeks ago, I had a delegation come to me from the Mississippi River delta, the poorest part of my State. Four communities described graphically for me how, every time they have a heavy rain, sewage runs down the street and runs down the ditches. The health consequences of that are absolutely incalculable. I said, "I have looked high and low, looked everywhere in this budget, and every other budget, trying to find $2.8 million to alleviate this problem." Because I made that speech there in the committee, I think I about got it solved. But I can tell you, that is going to be the greatest thing that has ever happened to those people in those communities. When I was a kid, we didn't understand why people died of typhoid fever in the summer because the outhouse was just 10 steps away from the water well. That is sort of the situation these people are living in.

Mr. President, we have a lot of unmet needs in this country, and I am not voting for any tax cuts until we address those.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

COMMODITY FUTURES TRADING COMMISSION

Mr. FAIRCLOTH. Mr. President, I do not have an amendment. I simply want to discuss very briefly an issue that I may later offer an amendment on to this legislation, and it is an issue that I understand you are also interested in, Mr. President. It is concerning the Commodity Futures Trading Commission. The Chairwoman of the Commission, Brooksley Born, is attempting to reverse the current policy at the CFTC that Congress directed over 5 years ago.

Mr. President, the issue is this. We have a $28 trillion swaps market in the United States. The vast majority of these swaps are privately negotiated contracts. They are not traded on any exchange; they are privately negotiated contracts. The business has grown rapidly in the last few years. It has become an important financial tool for institutions to hedge their risks. But, clearly, it is not a trading issue, this is a—it is redundant to say—privately traded issue. These are swaps between those companies.

Yet, the CFTC now has under review a "concept release"—a good bureaucratic term—a "concept release" to regulate these privately negotiated instruments. Essentially, the CFTC wants to vastly broaden its regulatory authority over a multitrillion-dollar market. The problem is that these are negotiations, again, between private firms. Furthermore, if one of the parties in the contract is a bank, these products are regulated by the bank regulators. And we do not need a dual regulation.

The result of the CFTC action will be that a trillion-dollar industry will, very simply, be driven out of this country. It will be driven overseas.

In case anyone thinks that this is just my opinion, in a move that I have rarely seen in Washington—we certainly haven't been seeing lately—in an incredible move, Chairman Greenspan, Secretary Rubin, and Secretary Arthur Levitt issued a joint statement saying they have "grave concerns" with what is being proposed to be done by Ms. Born.

How often do you see the three principal financial regulators of the country come together to express grave concern over an issue and rebuke another financial regulator? You simply do not see it happen. They are concerned, and the potential for great loss to this country is just tantamount to it happening.

The Treasury Department has even gone to such lengths as to formally send legislation to the Congress to stop this potential regulation. It is the Treasury Department under Secretary Rubin, and they may even go to such lengths to stop it.

I want to, if I may, Mr. President, read a joint statement. This statement was issued by Mr. Rubin, Mr. Greenspan, and Mr. Levitt.

On May 7, the Commodity Futures Trading Commission ("CFTC") issued a concept release on over-the-counter derivatives. We have grave concerns about this action and its possible consequences. The OTC derivatives market is a large and important global market. We seriously question the scope of the CFTC's jurisdiction in this area, and we are very concerned about reports that the CFTC's action may increase the legal uncertainty concerning certain types of OTC derivatives.

The concept release raises important public policy issues that should be dealt with the entire regulatory community working with Congress, and we are prepared to pursue, as appropriate, legislation that would provide greater certainty concerning the legal status of OTC derivatives.

Furthermore, Chairman JIM LEACH of the House Banking Committee has introduced similar legislation.

To me, the agreement of this number of people on one issue is unprecedented. We need to wake up and realize that we have a rogue regulator—I know of no nicer way to put it—at the CFTC that is threatening to drive a trillion-dollar business out of the United States.

My amendment, if I introduce it, would simply state that no final rule on this can be promulgated during fiscal year 1999. This is the amendment that I have contemplated.

Mr. President, this is a very complex subject. We do not need to rush to judgment. It needs thorough and careful review. It is not the type of thing that attracts a lot of attention on the Senate or the House floor. As we said, it is not a subject that is easily understood. But even for those who do not understand it, Secretary Rubin, Chairman Greenspan, and Secretary Levitt all agree with House Banking Committee Chairman JIM LEACH that it is a dangerous direction that Ms. Born is heading and one that we should not be going in.

It is simply time for us to stop and give us a year to review the implications of what she is talking about. And, further, the CFTC is up for reauthorization next year anyway. If it needs to be done, that would be the time to do it, and we could address it at that time.

Mr. President, I thank you. I look forward to working with you on this program.

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. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

AMENDMENT NO. 2729

Mr. DASCHLE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. DASCHLE) proposes an amendment numbered 2729.

Mr. DASCHLE. 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 (No. 2729) is printed in today's RECORD under "Amendments Submitted.")

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

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

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

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

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.)

MESSAGES FROM THE HOUSE

At 11:28 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 375. An act for the relief of Margarito Domantay.

H.R. 1949. An act for the relief of Nuratu Olarewaju Abeke Kadiri.

H.R. 3035. An act to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

H.R. 3069. An act to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council.

H.R. 3097. An act to terminate the Internal Revenue Code of 1986.

H.R. 3156. An act to present a congressional gold medal to Nelson Rolihlahla Mandela.

H.R. 3796. An act to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.

H.R. 3824. An act amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1847) to improve the criminal law relating to fraud against consumers.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1847. An act to improve the criminal law relating to fraud against consumers.

S. 1900. An act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 12:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for the elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 375. An act for the relief of Margarita Domantay; to the Committee on the Judiciary.

H.R. 1949. An act for the relief of Nuratu Olarewaju Abeke Kadiri; to the Committee on the Judiciary.

H.R. 3069. An act to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the Implementation of the proposals and recommendations of the Advisory Council; to the Committee on Indian Affairs.

H.R. 3097. An act to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

H.R. 3796. An act to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction of improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times, and placed on the calendar:

H.R. 3035. An act to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 18, 1998, he had presented to the President of the United States, the following enrolled bill:

S. 1900. An act to establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

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-5570. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Amendments to Rules of Practice and Procedure" received on June 12, 1998; to the Committee on Finance.

EC-5571. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on fissile materials in the former Soviet Union for fiscal year 1997; to the Committee on Armed Services.

EC-5572. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's annual report for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC-5573. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "License Term for Medical Use Licenses" (RIN3150-AF77) received on June 15, 1998; to the Committee on Environment and Public Works.

EC-5574. A communication from the Secretary of State and the Secretary of Defense, transmitting, pursuant to law, a report on plans to enhance coalition interoperability in the face of chemical or biological weapon threats; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-481. A resolution adopted by the Senate of the Legislature of the State of Alaska relative to compensation of Holocaust victims by the Swiss banking industry; to the Committee on Foreign Relations.

POM-482. A resolution adopted by the National Association of the Physically Handicapped, Inc. (Okemos, Michigan) relative to physician-assisted suicide; to the Committee on Labor and Human Resources.

POM-483. A resolution adopted by the National Association of the Physically Handicapped, Inc. (Okemos, Michigan) relative to non-profit hospital sales; to the Committee on Labor and Human Resources.

POM-484. A resolution adopted by the National Association of the Physically Handicapped, Inc. (Okemos, Michigan) relative to community health care; to the Committee on Labor and Human Resources.

POM-485. A joint resolution adopted by Legislature of the State of Tennessee; to the Committee on Commerce, Science, and Transportation.

SENATE JOINT RESOLUTION NO. 712

Whereas, This General Assembly acknowledges the importance and emerging dependence of business, government and society on the Internet as a growing part of our system of communications and commerce; and

Whereas, The members of this legislative body also recognize that the Internet as a medium of free speech contains, in addition to its many salutory features, potential dangers for society and especially our youth, in that it can provide uncontrolled and instantaneous access to obscenity, child pornography and other adult-oriented materials that are harmful to youth; and

Whereas, In 1996, Congress attempted to place restrictions on the Internet to curb these dangers by the passage of the Communications Decency Act of 1996, which was declared unconstitutional in part by the United States Supreme Court in the case of Reno v. ACLU; and

Whereas, The Internet is in a developing stage and software developments and other market forces may eventually allow Internet providers to provide clean Internet services or products that will protect children from the harms of the Internet and permit users to block out offensive materials and services without compromising the beneficial aspects of the Internet; and

Whereas, The technology currently exists to more readily control these problems by the use of designated top-level domain site for web sites that contain pornographic and adult-oriented materials and services which if employed will expedite and facilitate the development of clean Internet materials and services by the lawful classification of web sites; and

Whereas, In October of this year, the United States Department of Commerce plans to set up a private not-for-profit corporation whose directors will create five new top-level domains that will register web sites by subject type; and

Whereas, A federal requirement that an adult-oriented domain site be created and that all adult-oriented web sites be registered to such domain would greatly aid Internet users, parents and teachers in shielding America's youth from the harms of pornography and adult-oriented materials and services that are available and proliferating on the Internet; and

Whereas, The states are somewhat limited in the regulation they can provide in this area because of the federal Commerce Clause; and

Whereas, Congress and the Executive Branch are the appropriate governmental branches to provide leadership in this area and may lawfully act to resolve quickly this issue in a responsible manner that comports with the ideals of the First Amendment; now, therefore, be it

Resolved by the Senate of the One-hundredth General Assembly of the State of Tennessee, the House of Representatives Concurring, That this Body hereby urges the United States Congress to establish and maintain a uniform resource locator system that contains a top-level domain for all Internet web sites providing pornographic or adult-oriented materials or services so as to facilitate and assist Internet users, services providers and software developers to manage the problem of uncontrolled access to obscenity, child pornography and other adult-oriented materials and services via Internet. Be it

Further Resolved, That this Body respectfully urges the President and Vice President of the United States and the Secretary of the Department of Commerce to use their offices and considerable influence to bring about the aims of this resolution by the means of executive order or department regulation, or the promotion of federal regulation, as they deem appropriate. Be it

Further Resolved, That the Clerk of the Senate deliver enrolled copies of this resolution to each member of the Tennessee delegation, to the United States Senate and the United States House of Representatives, to the Chairman of the United States Senate Commerce, Science and Transportation Committee and the United States House Commerce Committee, and to the President and Vice President of the United States and the Secretary of the United States Department of Commerce.

POM–486. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Finance.

HOUSE JOINT RESOLUTION NO. 525

Whereas, House Resolution No. 2912 of the 105th U.S. Congress was introduced in 1997 to reinstate payments under Medicare for home health services relating to venipuncture for the express purpose of obtaining blood samples; and

Whereas, the legislation also requires the Secretary of the Department of Health and Human Services to study potential fraud and abuse under the Medicare program with respect to such services; and

Whereas, the Department of Health and Human Services study calls for an examination of critical aspects of the Medicare program as it pertains to venipuncture services, along with the cost to beneficiaries if payment under the Medicare program is prohibited for such home health services; and

Whereas, the Department is also directed under the legislation to determine the costs to states through the potentially increased use of personal care services and nursing home placements as a result of Medicare not covering venipuncture procedures; and

Whereas, such services are vitally important in the diagnosis and treatment of many catastrophic illnesses, which if left undetected will result in increased future Medicare expenditures; and

Whereas, as citizens of this country continue to be unreasonably burdened by spiraling medical costs, the availability of adequate medical care is critical to their well-being; and it is incumbent upon the members of this Legislative Body to express our unflagging support for this significant legislation; now, therefore, be it

Resolved by the House of Representatives of the One-hundredth General Assembly of the State of Tennessee, the Senate Concurring, That this General Assembly hereby memorializes the U.S. Congress to act expeditiously to enact the Medicare Venipuncture Fairness Act. Be it

Further Resolved, That this General Assembly memorializes each member of the U.S. Congress from Tennessee to utilize the full measure of his or her influence to effect the enactment of the Medicare Venipuncture Fairness Act. Be it

Further Resolved, That the Chief Clerk of the House of Representatives is directed to transmit a certified copy of this resolution to the Honorable Bill Clinton, President of the United States; the President and the Secretary of the U.S. Senate; the Speaker and the Clerk of the U.S. House of Representatives; and to each member of the Tennessee delegation to the U.S. Congress.

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. NICKLES:

S. 2187. A bill to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. INOUYE, Mr. AKAKA, and Mr. STEVENS):

S. 2188. A bill to amend section 203(b) of the National Housing Act relating to the calculation of downpayments; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WYDEN (for himself and Mr. BURNS):

S. 2189. A bill to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself, Mr. DOMENICI, Mr. KERRY, and Mr. BINGAMAN):

S. 2190. A bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY:

S. 2191. A bill 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.

By Mr. HATCH:

S. 2192. A bill to make certain technical corrections to the Trademark Act of 1946; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2193. A bill to implement the provisions of the Trademark Law Treaty; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEVIN (for himself and Mr. ABRAHAM):

S. Res. 251. A resolution to congratulate the Detroit Red Wings on winning the 1998 National Hockey League Stanley Cup Championship and proving themselves to be one of the best teams in NHL history; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 2187. A bill to amend the Federal Power Act to ensure that no State may

establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; to the Committee on Energy and Natural Resources.

THE ELECTRIC CONSUMER CHOICE ACT

Mr. NICKLES. Mr. President, I rise today to introduce the Electric Consumer Choice Act. For the last 2 years hearings and workshops have been held in both the House and Senate examining the issue of restructuring the electric industry. Many bills have been introduced on this issue by both Congressmen and Senators, some comprehensive and some dealing with more discreet issues such as repeal of the Public Utility Holding Company (PUHCA) or repeal of the Public Utility Regulatory Policies Act of 1978 (PURPA). The bill that I am introducing today cuts to the heart of the issue: do we or don't we support allowing consumers to choose their electric supplier? Do we or don't we support a national competitive market in electricity? I believe the answer to these questions is a resounding "yes"! This Congress believes competition is good, that free markets work and that every American will benefit from a competitive electric industry.

The Electric Consumer Choice Act is intended to begin the process of achieving a national, competitive electricity market. It will establish consumer choice of electric suppliers as a goal this Congress firmly supports. It achieves this in a simple, straight-forward method. First, it eliminates electric monopolies by prohibiting the granting of exclusive rights to sell to electric utilities. Second, it prohibits undue discrimination against consumers purchasing electricity in interstate commerce. Third, it provides for access to local distribution facilities and finally, it allows a state to impose reciprocity requirements on out-of-state utilities. The bill also makes it clear that nothing in this act expands the authority of the Federal Energy Regulatory Commission (FERC) or limits the authority of a state to continue to regulate retail sales and distribution of electric energy in a manner consistent with the Commerce Clause of the United States Constitution.

The premise of this bill is that all attributes of today's electric energy market—generation, transmission, distribution and both wholesale and retail sales—are either in or affect interstate commerce. Therefore, any State regulation of these attributes that unduly discriminates against the interstate market for electric power violates the Commerce Clause unless such State action is protected by an act of Congress.

The Supreme Court has interpreted Part II of the Federal Power Act (FPA) as protecting State regulation of generation, local distribution, intrastate transmission and retail sales that unduly discriminates against the interstate market for electric power. The Court has reasoned that Congress, in the FPA, determined that the federal government needed only to regulate wholesale sales and interstate transmission in order to adequately protect interstate commerce in electric energy. Thus, all other aspects of the electric energy market were reserved to the States and protected from challenges under the Commerce Clause. The Electric Consumer Choice Act amends the FPA to eliminate the protection provided for State regulation that establishes, maintains, or enforces an exclusive right to sell electric energy or that unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce.

This bill provides consumers and electric energy suppliers with the means to achieve retail choice in all States by January 1, 2002. It does not impose a federal statutory mandate on the States. It does not preempt the States' traditional jurisdiction to regulate the aspects of the electric power market in the reserved realm—generation, local distribution, intrastate transmission, or retail sales—it merely limits the scope of what the States can do in that realm. It does not expand or extend FERC jurisdiction into the aspects of traditional State authority.

As I stated earlier, this bill is intended to provide every consumer a choice when it comes to electricity suppliers. It is intended to establish that this Congress supports national competition when it comes to the generation of electricity. It is intended to be the beginning, not the end of the process. There are many other issues that need to be addressed at the federal level to facilitate a national market for electricity. Some of these issues include repeal of PURPA and PUHCA, taxation differences between various electric providers, clarification of jurisdiction over transmission, ensuring reliability, providing for inclusion of Power Marketing Administrations and the Tennessee Valley Authority in a national market, and other issues that can only be addressed at the Federal level. These issues need to be addressed and should be addressed. But while these issues are being debated we should ensure that progress towards customer choice proceeds.

I am proud to say that my state of Oklahoma has been in the forefront of opening up it's electricity markets to competition. Seventeen other states have also moved to open their markets. It is my hope that the Electric Consumer Choice Act will facilitate this process nationally. To that end, I am introducing this bill today.

Mr. President, I ask unanimous consent that the Electric Consumer Choice Act be printed in the RECORD.

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

S. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Electric Consumer Choice Act".

SEC. 2. FINDINGS.

The Congress finds that—

(a) the opportunity for all consumers to purchase electric energy in interstate commerce from any supplier is essential to a dynamic, fully integrated and competitive national market for electric energy.

(b) the establishment, maintenance or enforcement of exclusive rights to sell electric energy and other State action which unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce from any supplier constitute an unwarranted and unacceptable discrimination against and burden on interstate commerce;

(c) in today's technologically driven marketplace there is no justification for the discrimination against and burden imposed on interstate commerce by exclusive rights to sell electric energy or other State action which unduly discriminates against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; and,

(d) the electric energy transmission and local distribution facilities of the nation's federally-owned, investor-owned and self-regulated utilities are essential facilities for the conduct of a competitive interstate retail market in electric energy in which all consumers have the opportunity to purchase electric energy in interstate commerce from any supplier.

SEC. 3. DECLARATION OF PURPOSE.

The purpose of this Act is to ensure that nothing in the Federal Power Act or any other federal law exempts or protects from Article I, Section 8, Clause 3 of the Constitution of the United States exclusive rights to sell electric energy or any other State actions which unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier.

SEC. 4. SCOPE OF STATE AUTHORITY UNDER THE FEDERAL POWER ACT.

Section 201 of the Federal Power Act (16 U.S.C. §824) is amended by adding at the end the following:

"(h) Notwithstanding any other provision of this section, nothing in this Part or any other federal law shall be construed to authorize a State to—

"(1) establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy; or,

"(2) otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier.".

SEC. 5. ACCESS TO TRANSMISSION AND LOCAL DISTRIBUTION FACILITIES.

No supplier of electric energy, who would otherwise have a right of access to a transmission or local distribution facility because such facility is an essential facility for the conduct of interstate commerce in electric energy, shall be denied access to such facility or precluded from engaging in the retail sale of electric energy on the grounds that such denial or preclusion is authorized or required by State action establishing, maintaining, or enforcing an exclusive right to

sell, transmit, or locally distribute electric energy.

SEC. 6. STATE AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

Part II of the Federal Power Act (16 U.S.C. §824) is amended by adding at the end the following:

"SEC. 215. STATE AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

"A State or state commission may prohibit an electric utility from selling electric energy to an ultimate consumer in such State if such electric utility or any of its affiliates owns or controls transmission or local distribution facilities and is not itself providing unbundled local distribution service in a State in which such electric utility owns or operates a facility used for the generation of electric energy.".

SEC. 7. SAVINGS CLAUSE.

Nothing in this Act shall be construed to—

(a) authorize the Federal Energy Regulatory Commission to regulate retail sales or local distribution of electric energy or otherwise expand the jurisdiction of the Commission, or,

(b) limit the authority of a State to regulate retail sales and local distribution of electric energy in a manner consistent with Article I, Section 8, Clause 3 of the Constitution of the United States.

SEC. 8. EFFECTIVE DATES.

Section 5 and the amendment made by section 4 of this Act take effect on January 1, 2002. The amendment made by section 6 of this Act takes effect on the date of enactment of this Act.

By Mr. MURKOWSKI (for himself, Mr. INOUYE, Mr. AKAKA, and Mr. STEVENS):

S. 2188. A bill to amend section 203(b) of the National Housing Act relating to the calculation of downpayments; to the Committee on Banking, Housing, and Urban Affairs.

FAMILY HOME OWNERS MORTGAGE EQUITY ACT

Mr. MURKOWSKI. Mr. President, today I, and my fellow Senator from the State of Alaska, Senator STEVENS, and my good friends and colleagues from the State of Hawaii, Senator INOUYE and Senator AKAKA, are introducing a very important measure—one that would unlock and open the door to many first-time home buyers.

As we are all aware, it is often the downpayment that is the largest impediment to home ownership for first-time home buyers. The Federal Housing Administration (FHA) began a pilot program two years ago to help families overcome that impediment by lowering the downpayment necessary for an FHA home mortgage.

Mr. President, I am pleased to say that the pilot program, which is located in Alaska and Hawaii, has reported great success.

This pilot program is effective because it accomplishes two feats: (1) it lowers the FHA downpayment, making it more affordable; and (2) it makes the FHA downpayment calculation easier and more understandable for all parties to the transaction. The pilot program, commonly called the "97 percent Loan-to-Value Program," requires—on average—only a minimum cash investment of three percent for home buyers.

Our bill amends section 203(b) of the National Housing Act by changing the current multi-part formula to a single calculation formula. The simplified formula creates a lower, more affordable downpayment while simultaneously simplifying the current, cumbersome loan calculation formula. Our bill would extend this lower and simplified downpayment rate to perspective home buyers across the country.

Mr. President, the pilot program is a win-win situation: affordable homes are made available to responsible buyers without any increase in mortgage default rates. Here's what mortgage lenders have reported:

There is no indication of increase in risk. The loans we have made to date have been to borrowers with excellent credit records and stable employment, but not enough disposable income to accumulate the cash necessary for a high downpayment.—Richard E. Dolman, Manager, Seattle Mortgage, Anchorage Branch.

Is the 97% program working? The answer is a resounding YES! . . . In this current day, it takes two incomes to meet basic needs. To come up with a large downpayment is increasingly difficult, especially for those just starting out. The 3% program is a good start . . . I do no believe that lowering the downpayment increased our risk. . .—Nancy A. Karriowski, Alaska Home Mortgage, Inc., Anchorage, Alaska.

We have experienced nothing but positive benefits from the FHA Pilot Program Loan Calculation in Alaska and Hawaii.—Roger Aldrich, President, City Mortgage, Corporation, Anchorage, Alaska.

We support the new loan calculation, as this has provided a step toward the goal of homeownership for everyone . . . We do not feel that there is a greater risk with the borrower putting 3 percent down rather than using the calculation under the standard program . . .—Lorna Gleason, Vice President, National Bank of Alaska.

Home buyers under the pilot program agree. Vicki Case of Palmer, Alaska is a single parent and a mortgage lender who earned too much to qualify for any of the low-income mortgage programs. She would have been unable to purchase her home had it not been for an FHA loan with the reduced down payment.

In fact, but for the pilot program, approximately 70 percent of the FHA loan applications processed in Vicki Case's office would be rejected. simply because the buyer could not afford the downpayment. Mr. President, thanks to this pilot program, more and more deserving Alaskans are becoming home owners.

Mr. President, our legislation has the support of the Mortgage Bankers Association of America, the National Association of Realtors, the National Association of Home Builders and the U.S. Department of Housing and Urban Development. They believe, as I do, that borrowers in all states should benefit from the simplification of the FHA downpayment calculation.

I firmly believe that helping American families realize their dream of home ownership is vital to the Nation as a whole. Our bill, by creating a lower FHA downpayment, does much to assist families in owning their first home—thereby making the American dream of home ownership a reality.

Mr. President, for details on how the new calculation works in comparison to the current calculation, I ask unanimous consent to submit into the RECORD a downpayment calculation comparison sheet. And I ask that my colleagues join Senator STEVENS, Senator INOUYE, Senator AKAKA, and me in supporting this important legislation.

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

FHA DOWNPAYMENT COMPARISON SHEET—THE CURRENT MORTGAGE CALCULATION VERSUS THE ALASKA/HAWAII PILOT PROGRAM

A. The current FHA mortgage calculation requires numerous steps. They are as follows:

Step 1: Determine the acquisition cost by adding closing costs to sales price [many times the closing costs must be estimated; if they are and the estimate changes during processing, then the calculations must be redone.]

Step 2: Apply the loan formulation to acquisition cost: (a) 97% of the $25,000, (b) 95% of the amount between $25,001 and $125,000, and (c) 90% of the amount in excess of $125,000.

Step 3: Determine the maximum LTV by multiplying the appraised value [minus closing costs] by 97.75%. If the property is valued at $50,000 or less, then multiply by 98.75%.

Step 4: To determine the maximum FHA mortgage amount, take the lower amount from steps 2 and 3. The difference between the mortgage amount and the acquisition cost is the downpayment.

The simplified calculation currently utilized for FHA projects in Alaska and Hawaii is basic, common sense:

The downpayment is based on a percent of home's sale price. If a home is valued at $50,000 or less, the downpayment will equal 98.75 percent of the value of the home, subtracted from the total costs of the sale of the home (the value of the home plus closing costs). For homes that are valued at $50,000 to $125,000 the downpayment will equal 97.65 percent of the value of the home subtracted from the total cost of the sale of home. And for homes that are valued over $125,000, the downpayment will be 97.15 percent of the home subtracted from the total cost of the sale of the home.

For example: If a home sells for $98,000 and its closing costs are $2,000, the total acquisition cost of the home is 100,000. To calculate a downpayment, 97.65 percent of the cost of the 98,000 home (which equals $85.697) is subtracted from the total cost of the home—the sales price plus its closing costs. Therefore, the downpayment would be $4,303 ($100,000 − 95,697).

By Mr. WYDEN (for himself and Mr. BURNS):

S. 2189. A bill to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements; to the Committee on Environment and Public Works.

WATER CONSERVATION AND QUALITY INCENTIVES ACT

• Mr. WYDEN. Mr. President, twenty-five years after enactment of the Clean Water Act, we still have not achieved the law's original goal that all our nation's lakes, rivers and streams would be safe for fishing and swimming.

After 25 years, it's time for the next generation of strategies to solve our remaining water quality problems. We need to give States new tools to overcome the new water quality challenges they are now facing.

The money that has been invested in controlling water pollution from factories and upgrading sewage treatment plants has gone a long way to controlling these urban pollution sources. In most cases, the remaining water quality problems are no longer caused by pollution spewing out of factory pipes. Instead, they are caused by runoff from a myriad of sources ranging from farm fields to city streets and parking lots.

In my home State of Oregon, more than half of our streams don't fully meet water quality standards. And the largest problems are contamination from runoff and meeting the standards for water temperature.

In many cases, conventional approaches will not solve these problems. But we can achieve water temperature standards and obtain other water quality benefits by enhancing stream flows and improving runoff controls.

A major problem for many streams in Oregon and in many other areas of the Western United States is that water supplies are fully appropriated or over-appropriated. There is currently no extra water to spare for increased stream flows.

We can't create a new water to fill the gap. But we can make more water available for this use through increased water conservation and more efficient use of existing water supplies.

The key to achieving this would be to create incentives to reduce wasteful water use.

In the Western United States, irrigated agriculture is the single largest user of water. Studies indicate that substantial quantities of water diverted for irrigation do not make it to the fields, with a significant portion lost to evaporation or leakage from irrigation canals.

In Oregon and other States that recognize rights to conserved water for those who conserve it, irrigators and other water users could gain rights to use conserved water while also increasing the amount of water available for other uses by implementing conservation and efficiency measures to reduce water loss.

The Federal government can play a role in helping meet our nation's changing water needs. In many Western States, water supply problems can be addressed by providing financial incentives to help water users implement cost effective water conservation and efficiency measures consistent with State water law.

And, we can improve water quality throughout the nation by giving greater flexibility to States to use Clean Water Act funds to control polluted runoff, if that's where the money is needed most.

Today, I am pleased to be joined by my colleague, Senator BURNS, in introducing legislation to authorize the Clean Water State Revolving Fund program to provide loans to water users to fund conservation measures or runoff controls. States would be authorized, but not required, to use their SRF funds for these purposes. Participation by water users, farmers, ranchers and other eligible loan recipients would also be entirely voluntary.

The conservation program would be structured to allow participating users to receive a share of the water saved through conservation or more efficient use, which they could use in accordance with State law. This type of approach would create a win/win situation with more water available for both the conservers and for instream flows. And, by using the SRF program, the Federal seed money would be repaid over time and gradually become available to fund conservation or other measures to solve water quality problems in other areas.

My proposal has the support of the Farm Bureau, Oregon water users, the Environmental Defense Fund and the Oregon Water Trust.

I urge my colleagues to support giving States greater flexibility to use their Clean Water funds for water conservation or runoff control when the State decides that is the best way to solve water quality problems and the water users voluntarily agree to participate.•

• Mr. BURNS. Mr. President, I am pleased today to join with my colleague from Oregon, Senator WYDEN, to introduce the Water Conservation and Quality Incentives Act, a bill to revise the state revolving fund in the Clean Water Act. This is language that Senator WYDEN and I have collaborated on to bring some sense of additional conservation of water resources to the many irrigation districts in the nation.

In the west, irrigators are by far the largest water users. These are folks who need the water because of the various crops that they have on the ground in the states out west. Unfortunately a large portion of the water that is used in irrigation is by nature displaced due to seepage within the canals and ditches in which the water flows. Although the water is not lost, since it seeps into the soil and assists in the overall soil moisture, it is not immediately available to the irrigator. However, it is water which could be more effectively used to provide additional water to the producer.

In most irrigation districts, irrigators pay for water that is released to them, and any displacement of this water does not help that producer on the bottom line. At a time when prices are low and markets are questionable, it is important that we give tools to the producer to make sure that they have every opportunity to stay in business.

A key underlying feature of the legislation, is that the water saved under the proposal in this bill will not only assist the producer in water and cost savings, but also will assist the future of water in the many rivers and streams in the west. At a time when the federal government seems to be taking steps to reduce state involvement in water rights this is extremely important.

The proposal put forth in this bill, will authorize the Clean Water State Revolving Fund to provide loans to irrigation districts to construct pipelines and develop additional conservation measures. The states would have an option in this measure, they would not have to involve their funds in this matter, but would allow them to do so if they so elected. In addition, those districts who did so elect to involve themselves would be able to add to their supply of water the difference between what they were using prior to the plan and what they were able to save.

This bill creates a win/win situation both for water users and for the multiple users of water in our states, particularly Oregon and Montana. We have an opportunity here to do something useful and worthwhile for the irrigators and the fishing, boating and those who use instream water. I would like to thank Senator WYDEN for his work on this measure and I am pleased to work with him today on this issue of great importance.•

By Mr. KENNEDY (for himself, Mr. DOMENICI, Mr. KERRY, and Mr. BINGAMAN):

S. 2190. A bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE PROGRAM FOR INVESTMENT IN MICRO-ENTREPRENEURS (PRIME) ACT OF 1998

Mr. KENNEDY. Mr. President, it is a privilege to join Senator DOMENICI, Senator KERRY, and Senator BINGAMAN in introducing the "The Program for Investment in Micro-Entrepreneurs" Act—the PRIME Act. This legislation will encourage investment in micro-entrepreneurs by supporting the kinds of education and training needed to help build new small businesses.

Today, the nation's entrepreneurial spirit is thriving, fueled by the extraordinary economic growth and prosperity we currently enjoy. But new entrepreneurs still face challenges that limit their ability to turn innovative ideas into successful businesses and create new jobs. They deserve assistance in learning the basics to take their ideas to the next level—starting their own firms.

The "PRIME" Act is designed to help small entrepreneurs bridge the gap between worthwhile ideas and successful businesses. It will offer $105 million over the next five years to build business skills in key areas such as recordkeeping, planning, management, marketing and computer technology.

The Clinton Administration strongly supports these initiatives. The Treasury Department's Community Development Financial Institutions Fund has become a lead agency for micro-enterprise activities across the country, and First Lady Hillary Rodham Clinton is one of their strongest advocates.

The PRIME Act will enhance all of these efforts. It will provide grants for micro-enterprise organizations across the country to assist disadvantaged and low-income entrepreneurs and provide them with essential training and education.

It will encourage the development of new micro-enterprise organizations, and expand existing ones to reach more micro-entrepreneurs.

It will sponsor research on the most innovative and successful ways of encouraging these new businesses and enabling them to succeed.

Under the Act, grants will be available each year to organizations that work with entrepreneurs. Local groups will leverage these funds with private and local resources to increase the impact of the federal seed money.

Massachusetts and New Mexico are leaders in this effort. The business community and local banks have made a significant investment in creating loan capital for micro-entrepreneurs to start their businesses.

By investing in micro-entrepreneurs, we will be harnessing the spirit and ideas of large numbers of Americans and creating new opportunities for self-sufficiency. We will be encouraging new small businesses that will strengthen the local economy in communities across the country. And that result in turn will help to keep our national economy strong as well. I look forward to working closely with our colleagues in the Senate and the House to enact this important measure.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVISION OF TECHNICAL ASSISTANCE TO MICROENTERPRISES.

Title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle C—Microenterprise Technical Assistance and Capacity Building Program

"SEC. 171. SHORT TITLE.

"This subtitle may be cited as the 'Program for Investment in Microentrepreneurs Act of 1998', also referred to as the 'PRIME Act'.

"SEC. 172. DEFINITIONS.

"For purposes of this subtitle—

"(1) the term 'Administrator' has the same meaning as in section 103;

"(2) the term 'capacity building services' means services provided to an organization that is, or is in the process of becoming a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs;

"(3) the term 'collaborative' means 2 or more nonprofit entities that agree to act jointly as a qualified organization under this subtitle;

"(4) the term 'disadvantaged entrepreneur' means a microentrepreneur that is—

"(A) a low-income person;

"(B) a very low-income person; or

"(C) an entrepreneur that lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as determined by the Administrator;

"(5) the term 'Fund' has the same meaning as in section 103;

"(6) the term 'Indian tribe' has the same meaning as in section 103;

"(7) the term 'intermediary' means a private, nonprofit entity that seeks to serve microenterprise development organizations and programs as authorized under section 175;

"(8) the term 'low-income person' has the same meaning as in section 103;

"(9) the term 'microentrepreneur' means the owner or developer of a microenterprise;

"(10) the term 'microenterprise' means a sole proprietorship, partnership, or corporation that—

"(A) has fewer than 5 employees; and

"(B) generally lacks access to conventional loans, equity, or other banking services;

"(11) the term 'microenterprise development organization or program' means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs or prospective entrepreneurs;

"(12) the term 'training and technical assistance' means services and support provided to disadvantaged entrepreneurs or prospective entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services; and

"(13) the term 'very low-income person' means having an income, adjusted for family size, of not more than 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section).

"SEC. 173. ESTABLISHMENT OF PROGRAM.

"The Administrator shall establish a microenterprise technical assistance and capacity building grant program to provide assistance from the Fund in the form of grants to qualified organizations in accordance with this subtitle.

"SEC. 174. USES OF ASSISTANCE.

"A qualified organization shall use grants made under this subtitle—

"(1) to provide training and technical assistance to disadvantaged entrepreneurs;

"(2) to provide training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist such organizations and programs in developing microenterprise training and services;

"(3) to aid in researching and developing the best practices in the field of microenterprise and technical assistance programs for disadvantaged entrepreneurs; and

"(4) for such other activities as the Administrator determines are consistent with the purposes of this subtitle.

"SEC. 175. QUALIFIED ORGANIZATIONS.

"For purposes of eligibility for assistance under this subtitle, a qualified organization shall be—

"(1) a nonprofit microenterprise development organization or program (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs;

"(2) an intermediary;

"(3) a microenterprise development organization or program that is accountable to a local community, working in conjunction with a State or local government or Indian tribe; or

"(4) an Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

"SEC. 176. ALLOCATION OF ASSISTANCE; SUBGRANTS.

"(a) ALLOCATION OF ASSISTANCE.—

"(1) IN GENERAL.—The Administrator shall allocate assistance from the Fund under this subtitle to ensure that—

"(A) activities described in section 174(1) are funded using not less than 75 percent of amounts made available for such assistance; and

"(B) activities described in section 174(2) are funded using not less than 15 percent of amounts made available for such assistance.

"(2) LIMIT ON INDIVIDUAL ASSISTANCE.—No single organization or entity may receive more than 10 percent of the total funds appropriated under this subtitle in a single fiscal year.

"(b) TARGETED ASSISTANCE.—The Administrator shall ensure that not less than 50 percent of the grants made under this subtitle are used to benefit very low-income persons, including those residing on Indian reservations.

"(c) SUBGRANTS AUTHORIZED.—

"(1) IN GENERAL.—A qualified organization receiving assistance under this subtitle may provide grants using that assistance to qualified small and emerging microenterprise organizations and programs, subject to such rules and regulations as the Administrator determines to be appropriate.

"(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of assistance received by a qualified organization under this subtitle may be used for administrative expenses in connection with the making of subgrants under paragraph (1).

"(d) DIVERSITY.—In making grants under this subtitle, the Administrator shall ensure that grant recipients include both large and small microenterprise organizations, serving

urban, rural, and Indian tribal communities and racially and ethnically diverse populations.

"SEC. 177. MATCHING REQUIREMENTS.

"(a) IN GENERAL.—Financial assistance under this subtitle shall be matched with funds from sources other than the Federal Government on the basis of not less than 50 percent of each dollar provided by the Fund.

"(b) SOURCES OF MATCHING FUNDS.—Fees, grants, gifts, funds from loan sources, and in-kind resources of a grant recipient from public or private sources may be used to comply with the matching requirement in subsection (a).

"(c) EXCEPTION.—

"(1) IN GENERAL.—In the case of an applicant for assistance under this subtitle with severe constraints on available sources of matching funds, the Administrator may reduce or eliminate the matching requirements of subsection (a).

"(2) LIMITATION.—Not more than 10 percent of the total funds made available from the Fund in any fiscal year to carry out this subtitle may be excepted from the matching requirements of subsection (a), as authorized by paragraph (1) of this subsection.

"SEC. 178. APPLICATIONS FOR ASSISTANCE.

"An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

"SEC. 179. RECORDKEEPING.

"The requirements of section 115 shall apply to a qualified organization receiving assistance from the Fund under this subtitle as if it were a community development financial institution receiving assistance from the Fund under subtitle A.

"SEC. 180. AUTHORIZATION.

"In addition to funds otherwise authorized to be appropriated to the Fund to carry out this title, there are authorized to be appropriated to the Fund to carry out this subtitle—

"(1) $15,000,000 for fiscal year 1999;

"(2) $25,000,000 for fiscal year 2000;

"(3) $30,000,000 for fiscal year 2001; and

"(4) $35,000,000 for fiscal year 2002.

"SEC. 181. IMPLEMENTATION.

"The Administrator shall, by regulation, establish such requirements as may be necessary to carry out this subtitle.".

SEC. 2. ADMINISTRATIVE EXPENSES.

Section 121(a)(2)(A) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4718(a)(2)(A)) is amended—

(1) by striking "$5,550,000" and inserting "$6,100,000"; and

(2) in the first sentence, by inserting before the period ", including costs and expenses associated with carrying out subtitle C".

SEC. 3. CONFORMING AMENDMENTS.

Section 104(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703(d)) is amended—

(1) in paragraph (2)—

(A) by striking "15" and inserting "17";

(B) in subparagraph (G)—

(i) by striking "9" and inserting "11";

(ii) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(iii) by inserting after clause (iii) the following:

"(iv) 2 individuals who have expertise in microenterprises and microenterprise development;"; and

(2) in paragraph (4), in the first sentence, by inserting before the period "and subtitle C".

Mr. DOMENICI. Mr. President, it is a pleasure to join with Senator KENNEDY in support of the PRIME Act, "Program for Investment in Micro-Entrepreneurs Act of 1998."

Starting one's own business is a part of the American dream. There are thousands of creative and hardworking men and women who believe they have a solid idea for building a new business. The realities of beginning a business are that it takes more than luck, hard labor, and dedication to make it work. There are often overwhelming obstacles for would-be small and micro entrepreneurs, due in part of the complexity of local, state and federal laws, the necessity of understanding the intricacies of marketing, feasibility studies, and bookkeeping practices, as well as finding a source for capital. Entrepreneurs usually need basic assistance to bring their idea to a viable business enterprise. They need training, technical assistance, and mentoring.

Under this bill grants will be available through the Community Development Financial Institutions Fund, matched at least 50 percent in non-federal funds, to help experienced nonprofit organizations provide the assistance these new businesses so urgently require. Fifty percent of these grants will be awarded to applicants serving low-income clients, and those serving equally both urban and rural areas. From so many case studies and histories of successful businesses, we know that enthusiastic entrepreneurs can sustain and build their businesses when these organizations are available to provide critical training and professional, technical assistance.

I have had the pleasure of visiting countless new micro-level businesses in my State of New Mexico, a great majority of whom received assistance from the very competent WEEST Corp organization, now located in five different sites throughout our State. This organization not only provides key technical assistance and training and access to low interest revolving loans, but it also provides mentoring and information about sound business practices to ensure their creative ideas become viable business entities.

Micro and small businesses are an absolutely critical component of our national economic growth. The Small Business Administration, for example, lends excellent support to entrepreneurs. At the small time, the PRIME Act will establish a complimentary program by enabling intermediary organizations to serve a more micro-level entrepreneurs who need specialized and hands-on assistance. This is a good investment for the future, and will be returned many fold by the creation of businesses that can contribute to the growth of the family, local, and national economies.

There are many success stories we can all point to about the business that began with an idea and eventually grew into a major global corporation. It all began with the basic tenacity of a businessman, woman, or family. We have no way of knowing how many more such success stories will be told in the future. It is guaranteed, however, that there are thousands of such extraordinary entrepreneurs willing to provide the ideas and hard labor to make it happen, and with a little help, they will be successful.

Again, I am pleased to join Senator KENNEDY in cosponsoring the PRIME Act. Whatever we can do to assist who want to be self-reliant, successful entrepreneurs, with a piece of the American dream, is an investment well worth taking.

Mr. BINGAMAN. Mr. President, I rise today to offer my very enthusiastic support for the micro-enterprise bill being introduced by Senator KENNEDY. Programs of this type provide technical support and funding to thousands of potentially productive Americans who are struggling to make ends meet and are looking for a way out of their current precarious economic situation.

I have visited microenterprise businesses in my state and know they work. These individuals possess energy, ingenuity, desire, and vision but currently lack access to three important ingredients that will allow them to be successful in their entrepreneurial efforts: business management training, knowledge of the market, and affordable capital. This bill will provide all three ingredients, and will do so in areas of the country that need economic assistance.

Microenterprise is not charity and it does not foster dependence. Instead, it encourages individuals to use their specific strengths and creativity to support themselves and their community. It is a market-based approach to economic empowerment and self-reliance that has proven to be successful both here and overseas, and it deserves to be expanded. It offers an alternative to poverty and provides the means by which individuals and communities can be saved from cycles of isolation, violence, and despair.

In New Mexico, I have seen the tangible results of microenterprise programs. One organization we have interacted with, ACCION, provided funds for Michael and Jamie Ford to begin a very successful business selling flies for fly-fishing in their community and over the Internet. They were recently named the Small Business Administration's Welfare-to-Work Entrepreneur of the Year in New Mexico. Another organization, the New Mexico Business Resource Center, recommended that funds be provided through New Mexico Community Development Loan Fund to Kevin Bellinger, who created a unique art and dance program for disadvantaged youths called Harambe. Here, low-income individuals are taught to interact in non-violent and constructive ways

and give back to the community in which they live. Mr. Bellinger was recently selected by New Mexico Newspaper as one of the top ten people in Santa Fe making a real difference in their community.

In Taos, the Taos County Economic Development Corporation providing funding for the Taos Food Center, a commercial kitchen that acts as an incubator for small-scale food producers and farmers in the region.

Previously, these individuals could not afford to rent space, buy commercial and office equipment, or market their products. With the assistance of microenterprise funds, the Taos Food Center provides the space and the equipment and provides on-site technical and business assistance. This allows individuals to rent the facility by the hour, and convert their crops into marketable products.

Other microenterprise organizations in New Mexico—the Rio Grande Community Development Corporation, La Jicarita Enterprise Community, WESST Corp., and so on—have had similarly stellar results. They play essential roles in their communities, and they should be commended for their efforts.

In April, I organized a roundtable discussion of all the microenterprise organizations operating in New Mexico. This was the first time representatives from these organizations met in the same location to discuss their respective philosophies, objectives, and strategies concerning microenterprise, and it was very beneficial to all of us. The dialogue with the organizations that began that day has continued to the present, and has only reinforced by commitment to these programs. The simple fact is: the work, and they work well.

The bill we are introducing today would accomplish several important tasks:

First, it will provide training, technical assistance, and start-up funds to potential entrepreneurs who are currently disadvantaged but eager to change their economic condition;

Second, it will provide training and capacity building services to microenterprise development organizations, an activity that will lead directly to the expansion of microenterprise funding and an increased number of clients being served;

Third, it will identify best practices in microenterprise technical and lending services, an activity that will further enhance efforts to provide funds to individuals in an efficient and effective manner;

Finally, it will ensure that microenterprise lending occurs in all areas that require assistance—meaning both rural and urban communities.

Let me conclude by thanking my colleague from Massachusetts and his staff for their work on this bill. I have been pleased to work with Senator KENNEDY on the development of the components contained within the bill, in particular those related to rural communities and Indian reservations. I believe that this bill will have a profound effect on the ability of low-income individuals to establish businesses, develop new products and services, and create new jobs. All of these activities can only help individuals and communities in the United States in a positive way.

By Mr. LEAHY:

S. 2191. A bill 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.

MADRID PROTOCOL IMPLEMENTATION ACT

Mr. LEAHY. Mr. President, I am pleased to introduce legislation that will implement the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Protocol). This bill is part of my ongoing effort to refine American intellectual property law to ensure that it serves to advance and protect American interests and does not serve to encumber small companies seeking to expand into international markets. Specifically, this legislation will conform American trademark application procedures to the terms of the Protocol in anticipation of the U.S.'s eventual ratification of the treaty, thereby helping American businesses to create a "one stop" international trademark registration process. This bill is one of many measures I have introduced and supported over the past few years to ensure that American trademark holders receive strong protection in today's world of changing technology and complex international markets.

In addition to this legislation, I have introduced the Trademark Law Treaty Implementing and Registration Simplification Act, which will bring U.S. trademark law into conformance with the Trademark Law Treaty. The Trademark Law Treaty will simplify trademark registration requirements around the world by establishing a list of maximum requirements which Treaty member countries can impose on trademark applicants. All American businesses, and particularly small American businesses, will benefit as a result.

Earlier this year, I introduced legislation authorizing the National Research Council of the National Academy of Sciences to conduct a comprehensive study of the effects of adding new generic Top Level Domains on trademark and other intellectual property rights.

Moreover, I supported the Federal Trademark Dilution Act of 1995, which was passed last Congress, to provide intellectual property rights holders with the power to enjoin another person's commercial use of famous marks that would cause dilution of the mark's distinctive quality.

Together, these measures represent major steps in our efforts to refine American trademark law to ensure that it serves to promote American interests.

Currently, in order for American companies to protect their trademarks abroad, they must register their trademarks in each and every country in which protection is sought. Registering in multiple countries is a time-consuming, complicated and expensive process—a process which places a disproportionate burden on smaller American companies seeking international trademark protection. This legislation will ease the registration burden by enabling American businesses to obtain trademark protection in all signatory countries with a single trademark application filed with the Patent and Trademark Office.

Since 1891, the Madrid Agreement Concerning the International Registration of Marks (Agreement) has provided an international trademark registration system. However, prior to adoption of the Protocol, the U.S. declined to join the Agreement because it contained terms deemed inimical to American intellectual property interests. In 1989, the terms of the Agreement were modified by the Protocol, which corrected the objectionable terms of the Agreement and made American participation a possibility. For example, under the Protocol, applications for international trademark extension can be completed in English; formerly, applications were required to be completed in French. It should be noted that the Protocol will not require substantive changes to American trademark law, hence the implementing legislation I introduce today is identical to the legislation that passed the House on May 5, 1998 and only would make those technical changes to American law necessary to bring the U.S. into conformity with the Protocol.

To date, the Administration has resisted accession to the treaty because of voting rights disputes with the European Union, which has sought to retain an additional vote for itself as an intergovernmental entity, in addition to the votes of its member states. I support the Administration's efforts to negotiate a treaty based upon the equitable and democratic principle of one-state, one-vote. However, in anticipation of the eventual resolution of this dispute, the Senate has the opportunity to act now to make the technical changes to American trademark law so that once this voting dispute is satisfactorily resolved and the U.S. accedes to the Protocol, "one-stop" international trademark registration can become an immediate reality for all American trademark applicants.

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. 2191

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 "Madrid Protocol Implementation Act".

SEC. 2. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946") is amended by adding after section 51 the following new title:

"TITLE XII—THE MADRID PROTOCOL

"SEC. 60. DEFINITIONS.

"For purposes of this title:

"(1) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

"(2) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(3) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(4) CONTRACTING PARTY.—The term 'Contracting Party' means any country or intergovernmental organization that is a party to the Madrid Protocol.

"(5) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection that is filed after an international registration is granted is recorded on the International Register.

"(6) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

"(A) the applicant or holder has a bona fide intention to use the mark in commerce,

"(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce, and

"(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, or to cause mistake, or to deceive.

"(7) EXTENSION OF PROTECTION.—The term 'extension of protection' means the protection resulting from an international registration that extends to a Contracting Party at the request of the holder of the international registration, in accordance with the Madrid Protocol.

"(8) HOLDER OF AN INTERNATIONAL REGISTRATION.—A 'holder' of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

"(9) INTERNATIONAL APPLICATION.—The term 'international application' means an application for international registration that is filed under the Madrid Protocol.

"(10) INTERNATIONAL BUREAU.—The term 'International Bureau' means the International Bureau of the World Intellectual Property Organization.

"(11) INTERNATIONAL REGISTER.—The term 'International Register' means the official collection of such data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded, regardless of the medium which contains such data.

"(12) INTERNATIONAL REGISTRATION.—The term 'international registration' means the registration of a mark granted under the Madrid Protocol.

"(13) INTERNATIONAL REGISTRATION DATE.—The term 'international registration date' means the date assigned to the international registration by the International Bureau.

"(14) NOTIFICATION OF REFUSAL.—The term 'notification of refusal' means the notice sent by an Office of a Contracting Party to the International Bureau declaring that an extension of protection cannot be granted.

"(15) OFFICE OF A CONTRACTING PARTY.—The term 'Office of a Contracting Party' means—

"(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks, or

"(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

"(16) OFFICE OF ORIGIN.—The term 'office of origin' means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

"(17) OPPOSITION PERIOD.—The term 'opposition period' means the time allowed for filing an opposition in the Patent and Trademark Office, including any extension of time granted under section 13.

"SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.

"The owner of a basic application pending before the Patent and Trademark Office, or the owner of a basic registration granted by the Patent and Trademark Office, who—

"(1) is a national of the United States,

"(2) is domiciled in the United States, or

"(3) has a real and effective industrial or commercial establishment in the United States,

may file an international application by submitting to the Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Commissioner.

"SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.

"Upon the filing of an application for international registration and payment of the prescribed fees, the Commissioner shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification. Upon examination and certification of the international application, the Commissioner shall transmit the international application to the International Bureau.

"SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.

"With respect to an international application transmitted to the International Bureau under section 62, the Commissioner shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

"(1) within 5 years after the international registration date; or

"(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

"SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

"The holder of an international registration that is based upon a basic application filed with the Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

"(1) directly with the International Bureau, or

"(2) with the Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Commissioner.

"SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

"(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

"(b) IF UNITED STATES IS OFFICE OF ORIGIN.—An extension of protection resulting from an international registration of a mark shall not apply to the United States if the Patent and Trademark Office is the office of origin with respect to that mark.

"SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

"(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

"(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall

constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

"(1) The international registration date, if the request for extension of protection was filed in the international application.

"(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

"(3) The date of priority claimed pursuant to section 67.

"SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.

"The holder of an international registration with an extension of protection to the United States shall be entitled to claim a date of priority based on the right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

"(1) the international registration contained a claim of such priority; and

"(2)(A) the international application contained a request for extension of protection to the United States, or

"(B) the date of recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention).

"SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.

"(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Commissioner shall cause the mark to be published in the Official Gazette of the Patent and Trademark Office.

"(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13. Unless successfully opposed, the request for extension of protection shall not be refused.

"(3) Extension of protection shall not be refused under this section on the ground that the mark has not been used in commerce.

"(4) Extension of protection shall be refused under this section to any mark not registrable on the Principal Register.

"(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Commissioner shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

"(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Commissioner shall transmit to the International Bureau any of the following that applies to such request:

"(A) A notification of refusal based on an examination of the request for extension of protection.

"(B) A notification of refusal based on the filing of an opposition to the request.

"(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

"(2) If the Commissioner has sent a notification of the possibility of opposition under paragraph (1)(C), the Commissioner shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

"(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Commissioner after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

"(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Commissioner shall issue a certificate of extension of protection pursuant to the request.

"(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark shall designate, by a written document filed in the Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.

"SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

"(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Commissioner shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the Patent and Trademark Office.

"(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

"(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register, and

"(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

"SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

"(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Commissioner shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

"(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

"(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under Article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

"SEC. 71. AFFIDAVITS AND FEES.

"(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Commissioner—

"(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; and

"(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, and at the end of each 10-year period thereafter, unless—

"(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; or

"(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and an additional fee prescribed by the Commissioner.

"(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that

any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

"SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

"An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

"SEC. 73. INCONTESTABILITY.

"The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Commissioner issues the certificate of the extension of protection under section 69, except as provided in section 74.

"SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

"An extension of protection shall convey the same rights as an existing registration for the same mark, if—

"(1) the extension of protection and the existing registration are owned by the same person;

"(2) the goods and services listed in the existing registration are also listed in the extension of protection; and

"(3) the certificate of extension of protection is issued after the date of the existing registration.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date on which the Madrid Protocol (as defined in section 60(1) of the Trademark Act of 1946) enters into force with respect to the United States.

By Mr. HATCH:

S. 2192. A bill to make certain technical corrections to the Trademark Act of 1946; to the Committee on the Judiciary.

TECHNICAL CORRECTIONS TO THE TRADEMARK ACT OF 1946

Mr. HATCH. Mr. President, I rise today to introduce some housekeeping amendments to the Trademark Act. This bill makes a number of technical corrections to the Trademark Act which will clean up the code and make explicit some of the current practices of the Patent and Trademark Office with respect to the trademark protection of matter that is wholly functional.

I take it as my duty as Chairman of the Committee on the Judiciary to try to ensure that the U.S. Code is clear, useful, and up-to-date. These housekeeping amendments will help clarify the law in useful ways, and I hope my colleagues will support this bill.

For the reference of my colleagues, I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS TO TRADEMARK ACT OF 1946.

(a) IN GENERAL.—The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946), is amended as follows:

(1) Section 1 (15 U.S.C. 1051) is amended—

(A) in subsection (a)(1)(A), by striking "goods in connection" each place it appears and inserting "goods on or in connection"; and

(B) in subsection (d)(1)—

(i) by inserting "and," after "specifying the date of the applicant's first use of the mark in commerce"; and

(ii) by striking "and, the mode or manner in which the mark is used on or in connection with such goods or services".

(2) Section 2 (15 U.S.C. 1052) is amended—

(A) in subsection (e)—

(i) in paragraph (3) by striking "or" after "them,"; and

(ii) by inserting before the period at the end the following: ", or (5) comprises any matter that, as a whole, is functional"; and

(B) in subsection (f), by striking "paragraphs (a), (b), (c), (d), and (e)(3)" and inserting "subsections (a), (b), (c), (d), (e)(3), and (e)(5)".

(3) Section 7(a) (15 U.S.C. 1057(a)) is amended in the first sentence by striking the second period at the end.

(4) Section 10 (15 U.S.C. 1060) is amended—

(A) at the end of the first sentence, by striking the comma before the period; and

(B) in the third sentence, by striking the second period at the end.

(5) Section 14(3) (15 U.S.C. 1064(3)) is amended by inserting "or is functional," before "or has been abandoned".

(6) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking "or device" and inserting ", device, any matter that as a whole is not functional,".

(7) Section 26 (15 U.S.C. 1094) is amended by striking "7(c),," and inserting ", 7(c),".

(8) Section 31 (15 U.S.C. 1113) is amended—

(A) by striking—

"§ 31. Fees";

and

(B) by striking "(a)" and inserting "SEC. 31. (a)".

(9) Section 32(1) (15 U.S.C. 1114(1)) is amended by striking "As used in this subsection" and inserting "As used in this paragraph".

(10) Section 33(b) (15 U.S.C. 1115(b)) is amended—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

"(8) That the mark is functional; or".

(11) Section 39(a) (15 U.S.C. 1121(a)) is amended by striking "circuit courts" and inserting "courts".

(12) Section 42 (15 U.S.C. 1124) is amended by striking "the any domestic" and inserting "any domestic".

(13) The Act is amended by striking "trademark" each place it appears in the text and the title and inserting "trademark".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply only to any civil action filed or proceeding before the United States Patent and Trademark Office commenced on or after such date relating to the registration of a mark.

SECTION-BY-SECTION ANALYSIS

SECTION 1. TECHNICAL CORRECTIONS TO THE TRADEMARK ACT OF 1946

Section 1(a) provides that the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provision of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 et seq.) shall be referred to as the "Trademark Act of 1946" and will be amended by the following provisions.

Subparagraph 1(a)(1)(A) amends subparagraph 1(a)(1)(A) of the Trademark Act to change the phrase "goods in connection" to "goods on or in connection". This amendment simply adds language to clarify that a trademark or service mark may be used on or in connection with goods or services rather than just directly on the goods. This language is fully consistent with case law and Patent and Trademark Office ("Office") practice and is not a substantive change.

Subparagraph 1(a)(1)(B)(i) amends subsection 1(d)(1) of the Trademark Act by inserting "and" after the words "specifying the date of the applicant's first use of the mark in commerce,".

Subparagraph 1(a)(1)(B)(ii) amends subsection 1(d)(1) of the Trademark Act by deleting "and the mode or manner in which the mark is used on or in connection with such goods or services". Section 1(d)(1) sets out the requirements for a complete "statement of use", the document that must be filed to complete any published trademark application that was originally filed based on intent-to-use the mark. The statement of use is meant to bring the intent-to-use based application into conformity with the requirements for a trademark application based on use in commerce. The deletion of this language makes this section parallel to section 1(a)(1)(A), as amended by the Trademark Law Treaty Implementation Act. Section 1(a)(1)(A), as amended, sets out the requirements for filing a complete trademark application based on use in commerce. Thus the amendment conforms the requirements of these two sections, requirements that should logically be identical. In addition, the experience of the Office has been that requiring the applicant to state the mode or manner of using the mark adds no additional useful information to the application inasmuch as an applicant is already required to submit specimens, e.g., tags, labels, advertising etc., to demonstrate how it is using the mark. Therefore, an additional statement concerning the mode or manner of use of the mark is unnecessary.

Subparagraph 1(a)(2)(A) amends paragraph 2(e) of the Trademark Act by adding a new subparagraph 5, "any matter that, as a whole, is functional", to the list of statutory refusals set out in that paragraph. The language clarifies that matter which is wholly functional must be refused registration, a position that is completely consistent with the intent of the Trademark Act. This change codifies both the case law in this matter and the long-standing practice of the Office to refuse registration to matter that is wholly functional based on a combined reading of sections 1, 2 and 45 of the Trademark Act. This new section will provide examining attorneys with a simple reference for the functionality refusal.

Subparagraph 1(a)(2)(B) amends paragraph 2(f) of the Trademark Act to add a reference

to the new statutory refusal set out in subparagraph 2(e)(5). This amendment to paragraph 2(f) of the Trademark Act provides that matter which is wholly functional may not be registered upon a showing that the matter has become distinctive. This change codifies existing case law and the current practice of the Office and is not a change in the substantive law.

Paragraph 1(a)(3) amends section 7(a) of the Trademark Act by deleting an extraneous period.

Paragraph 1(a)(4) amends section 10 of the Trademark Act by deleting extraneous punctuation.

Paragraph 1(a)(5) amends paragraph 14(3) of the Trademark Act by inserting the phrase "or is functional," before "or has been abandoned". This amendment adds an additional ground for canceling a registration more than five years after the date of registration. This amendment changes existing case law in this matter but is fully consistent with the purpose of the Trademark Act. To exempt the registration of a wholly functional design from being subject to cancellation five years after the registration has issued permits the trademark owner with such a registration to obtain patent-like protection for its wholly functional design without the limited term that the patent law imposes. This change is therefore wholly consistent with both the purpose of the Trademark Act and the codifications of current practice regarding functionality made in this Act.

Paragraph 1(a)(6) amends section 23(c) of the Trademark Act by adding "any matter that as a whole is not functional" to the listing of the types of marks which can be registered on the Supplemental register. This change codifies existing case law and the current practice of the Office.

Paragraph 1(a)(7) amends section 26 of the Trademark Act by deleting an extraneous comma.

Paragraph 1(a)(8) amends section 31 of the Trademark Act by deleting "§31 Fees" from the title of the section and inserting "Sec. 31. (a)".

Paragraph 1(a)(9) amends section 32(1) of the Trademark Act to clarify that the definition of "any person" as set out in paragraph 1 of section 32 is limited to the matter within the paragraph.

Paragraph 1(a)(10) amends section 33(b) of the Trademark Act by inserting as a new paragraph 8, "That the mark is functional; or". This language adds a new defense against a claim of infringement made by the owner of a mark which has become "incontestable" under the provisions of section 32 of the Trademark Act. This language is fully consistent with the amendment made to paragraph 14(3) of the Trademark Act by paragraph 1(a)(5) of this Act.

Paragraph 1(a)(11) amends section 39(a) of the Trademark Act to strike a reference, that is no longer relevant, to "circuit courts" and insert the word "courts".

Paragraph 1(a)(12) amends Section 42 of the Trademark Act by sdeleting an extraneous "the".

Paragraph 1(a)(13) amends the Act to strike "trade-mark" in each place it occurs and replace it with "trademark". This is the more modern spelling.

Section 1(b) establishes an effective date that is prospective with respect to both civil actions and proceedings at the U.S. Patent and Trademark Office.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2193. A bill to implement the provisions of the Trademark Law Treaty; to the Committee on the Judiciary.

TRADEMARK LAW TREATY IMPLEMENTATION ACT

Mr. HATCH. Mr. President, I rise to introduce the Trademark Law Treaty Implementation Act of 1998. This legislation makes necessary changes in our domestic trademark law and procedures to ensure that we are in compliance when we ratify the treaty, which appears more likely this year than previously. The Trademark Law Treaty was done and signed at Geneva in October of 1994, and entered into force in 1996.

The obligations under the Trademark Law Treaty legislation will require some relatively minor changes to U.S. trademark practice, but will bring significant improvements in the trademark practices of a number of important countries around the world in which U.S. trademark owners seek protection. The required changes will eliminate complexities and simplify the process of obtaining, renewing, and managing trademark assets for American firms marketing their products and services around the world.

Countries around the world have a number of varying requirements for filing trademark applications, effecting changes of ownership of trademark registrations, and other procedures associated with managing trademark assets. These differences cause considerable aggravation and expense to trademark owners seeking to protect their marks around the world. Many of these procedures and requirements imposed by foreign countries are non-substantive and highly technical. In addition, many of these requirements in the various procedures of foreign trademark offices impose very significant cost burdens, both in official fees to be paid to local trademark offices, as well as agent's fees for fulfilling the various requirements. For example, many countries require that signatures on applications for powers of attorney be notarized, authenticated, and legalized. This very expensive and time consuming procedure is prohibited under the Treaty in all cases except where the registrant is surrendering a registration.

The Treaty eliminates these conflicting and expensive practices by setting forth a list of maximum requirements which a member State can impose for various actions. Specifically, the Treaty sets forth maximum requirements for: the contents of a trademark application; the content of a power of attorney; the elements necessary for an application to receive a filing date; a request to record a change in the name or address of a trademark owner; and, a request to renew a trademark registration. These requirements are implemented through the adoption of model forms for trademark applicants and owners to use which must be accepted by every member State. While a member need not impose all of the requirements or elements listed, it cannot demand the inclusion of any additional requirements or elements in respect of a particular action.

There are several other guarantees mandated by the Treaty that will benefit trademark applicants and owners. Under the Treaty, countries will have to register and protect service marks, as well as goods marks, an important consideration to the U.S. service economy, which has many valuable service marks, such as Marriott and American Airlines. Applicants will be able to file for protection under multiple classifications for goods and services, which will mature into multiple class registrations. No longer will trademark owners be forced to make a separate filing for each power of attorney; one general power will suffice. Member countries are precluded from considering goods or services as being similar to each other simply on the ground that they appear in the same class of the NICE classification. Moreover, a request to change the name or address of a trademark owner or a request to correct a mistake in a trademark registration may not be refused without giving the trademark owner an opportunity to comment.

As I indicated, the Trademark Law Treaty Implementation Act of 1998 makes only minor changes in our domestic trademark law. These changes include: the elimination of the requirement for a statement of the manner in which a mark is used or intended to be used in connection with the goods or services identified in the application; the elimination of the requirement that the applicant verify an application; the adoption of a grace period of at least six months for the filing of a renewal application; the elimination of a declaration or evidence concerning the use of a mark in connection with the filing of a renewal application; and, the elimination of a requirement to file a copy of the actual assignment document as a condition for recording the assignment of a trademark registration.

This bill will also harmonize and simplify the procedural requirements under the Trademark Act of 1946. Sections 8 and 9 will be amended to establish a similar period of one year prior to the end of the applicable time period, along with a grace period of six months after that period, for filing both affidavits of use and renewal applications. While it separates the ten-year affidavit of use from the renewal application, as required by the Treaty, the bill permits them both to be filed during the same time period which will benefit trademark applicants.

The Trademark Law Treaty Implementation Act of 1998 will help American companies protect their trademark assets in markets around the world thereby facilitating their ability to compete. At the same time, the changes it makes in U.S. trademark

law are made in a manner that will assist American trademark owners protect their marks in this country.

Mr. President, I hope my colleagues will support this legislation which is so important to American trademark owners.

I ask unanimous consent that the text of the bill and an explanatory section by section analysis be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2193

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 "Trademark Law Treaty Implementation Act".

SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

For purposes of this Act, the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.), shall be referred to as the "Trademark Act of 1946".

SEC. 3. APPLICATION FOR REGISTRATION; VERIFICATION.

(a) APPLICATION FOR USE OF TRADEMARK.—Section 1(a) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) is amended to read as follows:

"SECTION 1. (a)(1) The owner of a trademark used in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner, and such number of specimens or facsimiles of the mark as used as may be required by the Commissioner.

"(2) The application shall include specification of the applicant's domicile and citizenship, the date of the applicant's first use of the mark, the date of the applicant's first use of the mark in commerce, the goods in connection with which the mark is used, and a drawing of the mark.

"(3) The statement shall be verified by the applicant and specify that—

"(A) the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered;

"(B) to the best of the verifier's knowledge and belief, the facts recited in the application are accurate;

"(C) the mark is in use in commerce; and

"(D) to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall—

"(i) state exceptions to the claim of exclusive use; and

"(ii) shall specify, to the extent of the verifier's knowledge—

"(I) any concurrent use by others;

"(II) the goods on or in connection with which and the areas in which each concurrent use exists;

"(III) the periods of each use; and

"(IV) the goods and area for which the applicant desires registration.

"(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.".

(b) APPLICATION FOR BONA FIDE INTENTION TO USE TRADEMARK.—Subsection (b) of section 1 of the Trademark Act of 1946 (15 U.S.C. 1051(b)) is amended to read as follows:

"(b)(1) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner.

"(2) The application shall include specification of the applicant's domicile and citizenship, the goods in connection with which the applicant has a bona fide intention to use the mark, and a drawing of the mark.

"(3) The statement shall be verified by the applicant and specify—

"(A) that the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be entitled to use the mark in commerce;

"(B) the applicant's bona fide intention to use the mark in commerce;

"(C) that, to the best of the verifier's knowledge and belief, the facts recited in the application are accurate; and

"(D) that, to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

Except for applications filed pursuant to section 44, no mark shall be registered until the applicant has met the requirements of subsections (c) and (d) of this section.

"(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.".

(c) CONSEQUENCE OF DELAYS.—Paragraph (4) of section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)(4)) is amended to read as follows:

"(4) The failure to timely file a verified statement of use under paragraph (1) or an extension request under paragraph (2) shall result in abandonment of the application, unless it can be shown to the satisfaction of the Commissioner that the delay in responding was unintentional, in which case the time for filing may be extended, but for a period not to exceed the period specified in paragraphs (1) and (2) for filing a statement of use.".

SEC. 4. REVIVAL OF ABANDONED APPLICATION.

Section 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) is amended in the last sentence by striking "unavoidable" and by inserting "unintentional".

SEC. 5. DURATION OF REGISTRATION; CANCELLATION; AFFIDAVIT OF CONTINUED USE; NOTICE OF COMMISSIONER'S ACTION.

Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) is amended to read as follows:

"DURATION

"SEC. 8. (a) Each registration shall remain in force for 10 years, except that the registration of any mark shall be canceled by the Commissioner for failure to comply with the provisions of subsection (b) of this section, upon the expiration of the following time periods, as applicable:

"(1) For registrations issued pursuant to the provisions of this Act, at the end of 6 years following the date of registration.

"(2) For registrations published under the provisions of section 12(c), at the end of 6 years following the date of publication under such section.

"(3) For all registrations, at the end of each successive 10-year period following the date of registration.

"(b) During the 1-year period immediately preceding the end of the applicable time period set forth in subsection (a), the owner of the registration shall pay the prescribed fee and file in the Patent and Trademark Office—

"(1) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and such number of specimens or facsimiles showing current use of the mark as may be required by the Commissioner; or

"(2) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is not in use in commerce and showing that any such nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

"(c)(1) The owner of the registration may make the submissions required under this section within a grace period of 6 months after the end of the applicable time period set forth in subsection (a). Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

"(2) If any submission filed under this section is deficient, the deficiency may be corrected after the statutory time period and within the time prescribed after notification of the deficiency. Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

"(d) Special notice of the requirement for affidavits under this section shall be attached to each certificate of registration and notice of publication under section 12(c).

"(e) The Commissioner shall notify any owner who files 1 of the affidavits required by this section of the Commissioner's acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

"(f) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 6. RENEWAL OF REGISTRATION.

Section 9 of the Trademark Act of 1946 (15 U.S.C. 1059) is amended to read as follows:

"RENEWAL OF REGISTRATION

"SEC. 9. (a) Subject to the provisions of section 8, each registration may be renewed for periods of 10 years at the end of each successive 10-year period following the date of

registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the Commissioner. Such application may be made at any time within 1 year before the end of each successive 10-year period for which the registration was issued or renewed, or it may be made within a grace period of 6 months after the end of each successive 10-year period, upon payment of a fee and surcharge prescribed therefor. If any application filed under this section is deficient, the deficiency may be corrected within the time prescribed after notification of the deficiency, upon payment of a surcharge prescribed therefor.

"(b) If the Commissioner refuses to renew the registration, the Commissioner shall notify the registrant of the Commissioner's refusal and the reasons therefor.

"(c) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 7. RECORDING ASSIGNMENT OF MARK.

Section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) is amended to read as follows:

"ASSIGNMENT

"SEC. 10. (a) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted. Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the Patent and Trademark Office, the record shall be prima facie evidence of execution. An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the Patent and Trademark Office within 3 months after the date of the subsequent purchase or prior to the subsequent purchase. The Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

"(b) An assignee not domiciled in the United States shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.".

SEC. 8. INTERNATIONAL CONVENTIONS; COPY OF FOREIGN REGISTRATION.

Section 44 of the Trademark Act of 1946 (15 U.S.C. 1126) is amended—

(1) in subsection (d)—

(A) by striking "23, or 44(e) of this Act" and inserting "or 23 of this Act or under subsection (e) of this section"; and

(B) in paragraphs (3) and (4) by striking "this subsection (d)" and inserting "this subsection"; and

(2) in subsection (e), by striking the second sentence and inserting the following: "Such applicant shall submit, within such time period as may be prescribed by the Commissioner, a certification or a certified copy of the registration in the country of origin of the applicant.".

SEC. 9. TRANSITION PROVISIONS.

(a) REGISTRATIONS IN 20-YEAR TERM.—The provisions of section 8 of the Trademark Act of 1946, as amended by section 5 of this Act, shall apply to a registration for trademark issued or renewed for a 20-year term, if the expiration date of the registration is on or after the effective date of this Act.

(b) APPLICATIONS FOR REGISTRATION.—This Act and the amendments made by this Act shall apply to any application for registration of a trademark pending on, or filed on or after, the effective date of this Act.

(c) AFFIDAVITS.—The provisions of section 8 of the Trademark Act of 1946, as amended by section 5 of this Act, shall apply to the filing of an affidavit if the sixth or tenth anniversary of the registration, or the sixth anniversary of publication of the registration under section 12(c) of the Trademark Act of 1946, for which the affidavit is filed is on or after the effective date of this Act.

(d) RENEWAL APPLICATIONS.—The amendment made by section 6 shall apply to the filing of an application for renewal of a registration if the expiration date of the registration for which the renewal application is filed is on or after the effective date of this Act.

SEC. 10. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect—

(1) on the date that is 1 year after the date of the enactment of this Act, or

(2) upon the entry into force of the Trademark Law Treaty with respect to the United States,

whichever occurs first.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This section provides a short title: "Trademark Law Treaty Implementation Act."

SECTION 2. REFERENCE TO THE TRADEMARK ACT OF 1946

This section provides that the Act entitle "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provision of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C 1051 et. seq.) shall be referred to as the "Trademark Act of 1946".

SECTION 3. APPLICATION FOR REGISTRATION; VERIFICATION

Summary of Section 3

This section amends subsections 1(a) (Application for Use) and 1(b) (Application for Intent to Use) of the Trademark Act of 1946 (15 U.S.C. 1051(a) and 1051(b)) to create a clear distinction between the written application, the form of which may be prescribed by the Commissioner, and the declaration pertaining to applicant's use or intention to use the mark, the substance of which is detailed in the respective subsections; to require that the declaration pertaining to use or intention to use be verified by the applicant; to authorize the Commissioner to promulgate rules prescribing both the elements of the application, in addition to those specified in the proposed provision, and those elements necessary for a filing date; to omit the requirement in the written application for a statement of the "mode or manner" in which the mark is used or intended to be used in connection with the specified goods or services; and to clarify and modernize the language of the subsections, as appropriate. In addition, an amendment is made to subsection 1(d) (15 U.S.C. 1051(d)) to clarify that an application may be revived after a notice of allowance is issued.

Applications under the Trademark Law Treaty and Existing U.S. Law

With the goal of simplifying and harmonizing the registration process worldwide, Article 3(1) of the Trademark Law Treaty ("Treaty" or "TLT") establishes a comprehensive list of indications or elements that may be required in an application to register a trademark or service mark ("mark"). This list permits a Contracting Party to the Treaty ("Party") to require, inter alia, a signature and declarations of use and intention to use a mark. The list does not permit a Party to require, inter alia, a statement of the mode or manner in which the mark is used, or intended to be used, in connection with the goods or services specified in the application. Article 3(4) of the Treaty obligates a Party that requires a signature to permit either the applicant or his representative to sign the application, except that a Party may require declarations of use and intention to use a mark to be signed by the applicant.

The existing subsections 1(a) and 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) and 1051(b)) require, respectively, declarations pertaining to use and intention to use a mark and require verification by the applicant of the written application, which includes the aforementioned declarations. Under the terms of the Treaty, the United States may continue to require the aforementioned declarations and may require verification by the applicant of such declarations, but may not require verification by the applicant of the written application. Thus, it becomes necessary to distinguish the declarations of use and intention to use from the other elements of the application.

Additionally, the existing subsections 1(a) and 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) and 1051(b)) require, respectively, a statement of the mode or manner in which the mark is used or intended to be used, in connection with the goods specified in the application. Thus, it becomes necessary to delete the requirement for this statement from the list of required elements in the written application.

Distinction Between Written Application and Verified Declarations

Consistent with the Treaty obligations, the proposed revision will distinguish between the written application and the declarations of use and intention to use for purposes of the signature requirement. The proposed revision will continue to require a written application, in such form as may be prescribed by the Commissioner, and a declaration verified by the applicant, as set forth in the two subsections.

By separating the written application from the verified declarations, there will no longer be a requirement in the law for verification by the applicant of the written application. In the proposed revision, as in the existing subsections, the Commissioner will retain authority to prescribe the form of the application. Thus, the Commissioner will have discretion to permit the written application to be filed with no signature or with the signature of applicant's representative. Also, the Commissioner may permit the filing of a single document, which combines the elements of the written application and the declaration, and which is signed by the applicant, as under the existing subsections.

Elements of the Written Application

The proposed revision specifies a non-exclusive list of elements and grants authority to the Commissioner to prescribe, by regulation and consistent with law and international obligations, additional elements which the Commissioner considers to be necessary for an application and those elements necessary for receipt of a filing date. This proposal improves the ability of the law pertaining to application requirements to accommodate advancing technology and further international procedural harmonization. The proposed revision specifically requires the application to include applicant's domicile and citizenship, the dates of applicant's first use of the mark and first use of the mark in commerce in an application under subsection 1(a), the goods in connection with which the mark is used or intended to be used, and a drawing of the mark. Consistent with the Treaty, the proposed revision omits a requirement for specification of the mode or manner in which the mark is used, or intended to be used, in connection with the goods specified in the application.

Additionally, the proposed revision reorganizes subsections 1(a) and (b) 1946 (15 U.S.C. 1051(a)) and 1051(b)) to clarify the provisions and to modernize the language. To parallel the language of the Treaty, the phrase "may apply to register" is replaced by "may request registration". Reference to "firm, corporation or association" is replaced by a reference to "juristic person" or "person." Section 45 defines "person" as including "juristic persons." These terms are considered preferable in view of the numerous types of juristic persons in existence today.

The Verified Statement

Rather than requiring in the verified statement a repetition of statements in the written application identifying goods and, in a section 1(a) application, dates of use, the proposed revision requires a statement that, to the best of the applicant's knowledge and belief, the facts recited in the application are accurate. In addition, the proposed revision specifies the averments that the applicant must make in the verified statement concerning applicant's use, or bona fide intention to use, the mark in commerce, ownership of the mark and lack of knowledge of conflicting third party rights. These averments do not differ from those in the existing provisions.

The proposed revision requires verification of the statement by the applicant and omits the specification of the appropriate person to verify the declaration for a juristic applicant, i.e., the proposed revision omits the phrase requiring verification by "a member of the firm or an officer of the corporation or association applying." While this revision is not required by the Treaty, it will greatly simplify the filing of an application without compromising the integrity of the information contained therein. This proposed revision will give the Patent and Trademark Office ("PTO") the discretion to determine the appropriate person with authority to sign the declaration for a juristic applicant.

Under the existing provision, the PTO has been limited to accepting, for example, only the signature of an officer of a corporation on an application when another corporate manager's signature would be appropriate because the corporate manager has authority to bind the corporation legally or because the corporate manager has specific knowledge of the facts asserted in the application. The unnecessary rigidity of the existing provision has worked a hardship on applicants who have been denied filing dates because the person verifying their application has not met the strict requirement of being an officer of the corporate applicant. Additionally, the Patent and Trademark Office has had difficulty applying the officer requirement to foreign juristic entities whose managers are not clearly officers under the United States' corporate standards.

Revival of Applications After the Notice of Allowance Has Issued

Existing subsection 1(d) (15 U.S.C. 1051(d)) is amended to clarify that applications which are awaiting the filing of a statement of use or a request for extension of time to file a statement of use may be revived if it can be shown to the satisfaction of the Commissioner that the failure to file was unintentional. Although this change is not necessary for the implementation of the TLT, the change clarifies that the Commissioner has the authority to revive such an application so long as reviving the application does not extend the statutory period for filing the statement of use. The standard for revival is that the applicant's failure to file was unintentional. This is the same standard that is being proposed in subsection 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) for reviving applications during the examination process.

SECTION 4. REVIVAL OF AN ABANDONED APPLICATION

Summary of Section 4

This section amends subsection 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) by changing the present standard for reviving an abandoned application upon a showing of "unavoidable" delay to the standard of "unintentional" delay.

Revival of Applications Under the Historical "Unavoidable Delay" Standard

Section 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) provides that an application is abandoned if the applicant does not timely respond to an Office Action, "unless it can be shown to the satisfaction of the Commissioner that the delay in responding was unavoidable, whereupon such time may be extended."

Prior to the implementation of the Trademark Act of 1946, there was no statutory provision for abandonment and revival of abandoned trademark applications. There was a regulatory provision that an abandoned application could be revived if it were "shown to the satisfaction of the Commissioner that the delay in the prosecution of the same was unavoidable," However, the legislative history of the Lanham Act is silent as to the meaning or intention behind the "unavoidable delay" standard for revival of abandoned applications.

The language of section 12(b) of the Trademark Act of 1946 is virtually identical to the analogous provision of the patent law, 35 U.S.C. 133, which provides for abandonment of patent applications and revival upon a showing of unavoidable delay. The requirements for reviving an "unavoidably" abandoned patent applications, set forth in 37 C.F.R. §1.137(a), are identical to the requirements for reviving an abandoned trademark application under 37 C.F.R. §2.66.

Courts have held that the Commissioner has broad discretion in determining whether a delay is unavoidable. Under current law, the Commissioner's decision is subject to judicial review, but will be reversed only if it is arbitrary, capricious, or an abuse of discretion. *Morganroth* v. *Quigg*, 885 F.2d 843, 21 USPQ2d 1125 (Fed. Cir. 1989); *Smith* v. *Mossinghoff*, 671 F.2d 533, 213 USPQ 977 (D.C. Cir. 1982); *Douglas* v. *Manbeck*, 21 USPQ2d 1697 (E.D. Pa. 1991).

Revival of Applications Under the New "Unintentional Delay" Standard

Prior to 1982, patent applications, like trademark applications, could be revived only upon a showing of unavoidable delay. Under Public Law 97–247, §3, 96 Stat. 317 (1982) codified at 35 U.S.C. 41(a)(7), it became possible to revive an unintentionally abandoned patent application. Section 41(a)(7) establishes two different fees for filing petitions with two different standards to revive abandoned applications. There is one for a petition to revive an unavoidably abandoned application and another fee for a petition to revive an unintentionally abandoned application. The procedure for petitioning to revive an unintentionally abandoned application is set forth in 37 C.F.R. §1.137(b), effective October 1, 1982. 58 Fed. Reg. 44277 (Aug. 20, 1993); 48 Fed. Reg. 2696 (Jan. 20, 1983). The rule requires, among other things, that the applicant submit a verified statement that the delay was unintentional, and provides that the "Commissioner may require additional information where there is a question that the delay was unintentional."

The legislative history of Public Law 97–247 states: Section 41(a)7 establishes two different fees for filing petitions with different standards to revive abandoned applications. . . Since the section provides for two alternative fees with different standards, the section would permit the applicant seeking revival . . . to choose one or the other of the fees and standards under such regulations as the Commissioner may establish. . . *This section would permit the Commissioner to have more discretion than present law to revive abandoned applications . . . in appropriate circumstances* (emphasis added). H.R. Rep. No. 542, 97th Cong. 2d Sess. 6–7 (1982), quoted in *In re Rutan*, 231 USPQ 864, 865 (Comm'r Pats. 1986).

The legislative history of Public Law 97–247 pertains primarily to fees. However, the intent of Congress appears to be to give the Commissioner the power to revive abandoned applications using a much less strict standard than had been previously applied. *In re Rutan, supra.* Neither the legislative history of the Lanham Act nor the relevant case law limit the Commissioner's authority to establish procedures for revival of unintentionally abandoned trademark applications.

With the goal of the Trademark Law Treaty to simplify the registration process worldwide, this proposed amendment parallels the unintentional standard for revival available to patent applicants and relaxes the standard for reviving trademark applications. This will enable the majority of applicants, who file a timely petition to revive an application that was abandoned due to an unintentional delay, to proceed to registration from the point that the application became abandoned, rather than requiring these applicants to refile their applications.

SECTION 5. DURATION OF REGISTRATION; CANCELLATION; AFFIDAVIT OF CONTINUED USE; NOTICE OF COMMISSIONER'S ACTION

Note on Sections 5 and 6: Registration Maintenance under the Trademark Law Treaty and Existing U.S. Law

Sections 5 and 6 of this legislation amend existing sections 8 and 9 of the Trademark Act of 1946, which are the two provisions of the Act containing requirements for registration maintenance. These two sections are analogous in their requirements for the filing of a verified document attesting to the use of the mark in commerce and specimens or facsimiles, or a showing of excusable non-use. Section 8 of the Trademark Act of 1946 requires the aforementioned filing during the year preceding the sixth year following registration to avoid cancellation of the registration. Section 9 of the Trademark Act of 1946 requires the aforementioned filing as part of the registration renewal application.

With the goal of simplifying and harmonizing the process for renewal of a trademark or service mark registration worldwide, Article 13(1) of the Treaty establishes a comprehensive list of indications that may be required in a request to renewal a trademark or service mark registration. This list does not include a declaration and/or evidence concerning use of the mark. Article 13(4)(iii) expressly prohibits a requirement for the furnishing of a declaration and/or evidence concerning use of the mark as part of a request for renewal. However, the Treaty contains no prohibition against a requirement for the periodic filing of a declaration and/or evidence of use in connection with a registration, as long as such requirement is not part of the requirements for renewal. In fact, Article 13(1)(b) of the Treaty, concerning renewal fees, recognizes that fees may be required in connection with the filing of a declaration and/or evidence of use of a registered mark.

Under the terms of the Treaty, the United States may continue to require the periodic filing of a verified document attesting to the use of the mark in commerce and specimens or facsimiles, or a showing of excusable non-use. However, the United States may not make such a requirement in connection with registration renewal.

Harmonization of Trademark Act Sections 8 and 9 Requirements

The proposed revision harmonizes certain procedural requirements for the affidavits required under this section with the requirements for a registration renewal application contained in section 9 of the Trademark Act of 1946. While both sections contain requirements for registration maintenance, the specific requirements pertaining to the filing required by each existing section differ unnecessarily. These differing requirements have caused confusion to some registrants, particularly those proceeding *pro se*, resulting in the cancellation of registrations of marks still in use in commerce due to non-compliance with the technical requirements of one or the other of these maintenance sections. Furthermore, since the proposed revision to section 8 adds an affidavit requirement at ten-year internals, harmonizing the filing procedures with those for renewal enables the registrant to make both filings at the same time, thus, simplifying registration maintenance.

Summary of Section 5

This section amends section 8 of the Trademark Act of 1946 (15 U.S.C. 1058). The main purpose of the revision of this section is to set out, in one section, all of the requirements for filing any of the affidavits of use needed to maintain a registration and to ensure that the requirements of each use affidavit are identical. This section includes the affidavit of use filed between the fifth and the sixth year after registration, between the fifth and the sixth year after publication under subsection 12(c), and in the year preceding every ten year anniversary of the registration.

This purpose is accomplished by adding an obligation to file an affidavit of use or non-use, consistent with the requirements set forth in the subsections, in the year preceding every tenth anniversary of the registration, to provide for correction of deficiencies in submissions under these subsections; to provide for a grace period for making submissions required by these subsections; to modernize the language and to simplify and clarify the existing procedural requirements for filing affidavits under these subsections; and to harmonize certain procedural requirements for such affidavits with the requirements for a registration renewal application contained in section 9 of the Trademark Act of 1946.

Subsection 8(a) states the duration of each registration and provides that the registration shall be canceled by the Commissioner if timely affidavits of use are not filed. Paragraph (1) of subsection 8(a) states that an affidavit of use must be filed by the end of six years following registration. Paragraph (2) of subsection 8(a) states that an affidavit of use must be filed by the end of six years following the date of publication under subsection 12(c) of the Trademark Act of 1946 (15 U.S.C. 1062(c)). Paragraph (3) of subsection 8(a) states that an affidavit of use must be filed by the end of each successive ten-year period following the date of registration.

Subsection 8(b) sets out the length of the time period during which the statutory filing can be made and the contents needed in each filing. In every case, there is a one year statutory period for filing the affidavit.

Subsection 8(c) permits the filing of the use affidavit, after the statutory period for filing has ended upon payment of an additional "grace period" surcharge. The section also provides that a correction of a deficiency, after the statutory period, may be made upon payment of an additional "deficiency" surcharge.

Subsection 8(c)(1) sets out the time period for filing the use affidavit where the statutory period has expired, the so-called "grace" period, and gives the Commissioner authority to prescribe a surcharge for affidavits filed during the grace period.

Subsection 8(c)(2) allows for correction of deficiencies in the filings submitted under this section upon payment of the deficiency surcharge.

Subsection 8(d) sets out the requirement that the Commissioner attach to each certificate of registration, and notice of publication under section 12(c), a special notice of the requirement for the affidavits required by this section. This section preserves an obligation of the Commissioner that is set out in the last sentence of existing section 8(a) and in section 12(c).

Subsection 8(e) preserves the obligation of the Commissioner, in existing subsection 8(c), to notify any owner who files an affidavit under section 8 of his acceptance or refusal of the affidavit. The subsection has been revised to reflect the revisions in subsections 8 (a) and (b) by stating that it applies to any of the above prescribed affidavits.

Subsection 8(f) has been added to require the appointment by owners, not domiciled in the United States, of a domestic representative for service of notices or process in proceedings affecting the mark.

Periodic Filing of the Affidavit

The PTO continues to believe in the value of requiring a periodic filing verifying the continued use of the mark as a way to maintain the integrity of the trademark register by periodically removing from the register marks no longer in use in commerce. Therefore, consistent with the Treaty obligations, the proposed revision adds to section 8 of the Trademark Act of 1946 an obligation to file an affidavit of use or excusable non-use, consistent with the requirements set forth in the subsection, in the year preceding the tenth anniversary of the registration and every ten years thereafter. This revision is proposed in view of the proposed deletion of the requirement in connection with registration renewal, in section 9 of the Trademark Act of 1946, for a verified statement attesting to the use of the mark in commerce, accompanied by specimens or facsimiles, or a showing of excusable non-use.

Grace Period and Correction of Deficiencies

Rules 8 of the Regulations under the Trademark Law Treaty provides that renewal request must be accepted for at least a six-month period, upon payment of a surcharge, after the date the renewal is due. The existing provisions of section 9 of the Trademark Act of 1946 permit the renewal application to be filed within a three-month period, upon payment of a surcharge, after the date the renewal is due. The existing provisions of section 8 of the Trademark Act of 1946 contain no grace period for the filing of the required affidavit after its due date. As described below, the proposed revision incorporates the six-month grace period required by the treaty for filing renewal requests and harmonizes the requirements for filings under sections 8 and 9 of the Trademark Act of 1946. Harmonization of the filing requirements of sections 8 and 9 will require the amendment of both sections to provide this six-month grace period for making the required filing. This amendment is a liberalization of sections 8 and 9 of the Trademark Act of 1946, which is desirable to avoid, to the extent possible, the removal from the register for mere technical reasons of marks that are still in use in commerce.

The proposed revision to section 8 of the Trademark Act of 1946 will amend the existing law by providing a six-month grace period for filing the required affidavit, conditioned upon payment of a "grace period" surcharge. Additionally, the proposed revision permits the correction of a deficiency after the sixth anniversary of registration. Such correction must be accompanied by a "deficiency surcharge" and be filed no later than the end of a prescribed period after notification of the deficiency. This proposed revision is consistent with the practice proposed in the revision to section 9(a) of the Trademark Act of 1946, concerning renewal.

Only an owner who did not make any filing prior to the end of the statutory period may make the required filing under the grace period provisions. The owner filing an affidavit prior to the end of the statutory period, but correcting a deficiency either during or after the grace period, will be subject to the "deficiency surcharge" only. On the other hand, the owner filing an affidavit during the six-month grace period, will be subject to the "grace period surcharge" (for the ability to file the affidavit during the grace period) and, if notified of deficiencies, the "deficiency surcharge" (for the ability to correct a deficiency after the end of the statutory period.) The proposed revision does not define deficiency or place any limits on the type of deficiency or omission that can be cured after expiration of the statutory filing period. The Commissioner has broad discretion to provide procedures and fees for curing deficiencies or omissions.

Simplification and Clarification of Section 8 of the Trademark Act

The proposed revision conforms the requirements of subsections 8(a) and (b) of the Trademark Act of 1946 to current practice. First, the language in the existing subsections "attaching to the affidavit a specimen or facsimile showing current use of the mark" is revised to clarify that the specimens or fascimiles are to be filed along with the affidavit but are not considered part of the affidavit for purposes of complying with the requirement to set forth in the affidavit the goods or services on or in connection with which the mark is in use in commerce. The sentence comprising subsection 8(a) of the Trademark Act of 1946 has been revised to clarify and distinguish the requirements for the fee, the affidavit, the specimens and a showing of non-use. The proposed revision further permits the Commissioner to specify the number of specimens or facsimiles required so that he may require a specimen or facsimile for each class of goods or services identified in the registration. The language "setting forth those goods or services recited in the registration on or in connection with which the mark is not in use in commerce" is proposed to be added to parallel the affidavit requirements pertaining to use of the mark and to clarify that the owner must specify the goods or services to which a showing of non-use pertains.

Existing Subsection 8(b)

The requirements set out in former subsection 8(b) of the Trademark Act of 1946, pertaining to marks published pursuant to section 12(c) of the Trademark Act of 1946, have been set out in subsections 8(a)(2), 8(b) and (8)(c) and conform to the proposed revisions as to the time of filing the affidavit, the grace period and the correction of deficiencies.

Existing Subsection 8(c)

Subsection 8(c) of the Trademark Act of 1946 is now set out in subsection 8(e) and has been amended to reflect the revisions in subsections 8 (a) and (b) to add requirements for the periodic filing of additional affidavits by changing reference from ". . . any owner who files either of the above-prescribed affidavits . . ." to ". . . any owner who files one of the above-prescribed affidavits . . .".

Subsection 8(f)—Appointment of Domestic Representative

Section 5 of this Act proposes to add a section 8(f) to the Trademark Act of 1946 to provide for the appointment of a domestic representative for service of notices or process in proceedings affecting the mark by owners not domiciled in the United States. This new subsection is consistent with similar requirements imposed on applicants by subsection 1(e) of the Trademark Act of 1946. This is necessary because the appointment required in subsection 1(e) of the Trademark Act of 1946 pertains only during the pendency of the application.

Registrant or Owner: Who must file?

Throughout the revised section 8, the term "registrant" has been replaced by the term "owner." The practice at the Patent and Trademark Office has been to require that the current owner of the registration file all the post-registration affidavits needed to maintain a registration. The current owner of the registration must aver to actual knowledge of the use of the mark in the subject registration. However, the definition of "registrant" in section 45 of the Act states that the "terms 'applicant' and 'registrant' embrace the legal representatives, predecessors, successors and assigns of each applicant and registrant." Therefore, use of the term "registrant" in section 8 of the Act would imply that any legal representative, predecessor, successor or assign of the registrant could successfully file the affidavits required by sections 8 and 9. To correct this situation, and to keep with the general principle, as set out in section 1, that the owner is the proper person to prosecute an application, section 8 has been amended to state that the owner must file the affidavits required by the section.

SECTION 6. RENEWAL OF REGISTRATION

Summary of Section 6

This section amends subsection 9(a) of the Trademark Act of 1946 to cross-reference the obligatory registration maintenance requirements of section 8 of the Trademark Act of 1946; to delete the obligation to submit as part of a renewal application verified statements regarding the use of the mark in commerce and attaching to the application a specimen or facsimile showing current use of the mark; to extend the time for filing a renewal application to up to one year before the expiration of the period for which the registration was issued or renewed and, for an additional fee, up to six months after the end of the expiring period of the registration; to grant authority to the Commissioner to prescribe the form of the written application for renewal of the registration; and, to permit the correction of deficiencies after the statutory filing period.

This section amends subsection 9(c) to specify the requirements for the appointment by registrants not domiciled in the United States of a domestic representative for service of notices or process in proceedings affecting the mark.

Use Requirement for Registration Renewal

Separate from the obligation to renew a trademark registration at ten-year intervals, the U.S. Patent and Trademark Office continues to believe in the value of requiring a periodic filing verifying the continued use of the mark as a way to maintain the integrity of the trademark register by periodically removing from the register marks no longer in use in commerce. Therefore, consistent with the Treaty obligations, the proposed revision deletes from subsection 9(a) of the Trademark Act of 1946 the requirement that the renewal application include a verified statement attesting to the use of the mark in commerce, accompanied by a specimen or facsimile evidencing current use of the mark, or a showing of excusable non-use. These requirements are proposed to be added to subsection 8(a) of the Trademark Act of 1946 in the form of an obligation to file an affidavit of use or excusable non-use, consistent with the requirements set forth in the subsection, on the tenth anniversary of the registration and every ten years thereafter.

Also, consistent with the treaty obligations, the requirement that the renewal application be verified is proposed to be deleted and the Commissioner is granted authority to prescribe the form of the written renewal application, consistent with law and international treaties or agreements to which the United States is a party.

Grace Period and Harmonization

Rule 8 of the Regulations under the Trademark Law Treaty provides that a renewal request must be accepted for at least a six-month period, upon payment of a surcharge, after the date the renewal is due. The existing provisions of section 9 of the Trademark Act of 1946 permit the renewal application to be filed within a three-month period, upon payment of a surcharge, after the date the renewal is due. The revision proposes to change the three-month grace period for requesting registration renewal to the six-month grace period required by the treaty and harmonizes the requirements for filings under sections 8 and 9 of the Trademark Act of 1946. Harmonization of the filing requirements of sections 8 and 9 will require the amendment of both sections to provide this six-month grace period for making the required filing. This amendment is a liberalization of sections 8 and 9 of the Trademark Act of 1946, which is desirable to avoid, to the extent possible, the removal from the register for mere technical reasons of marks that are still in use in commerce. In particular, consistent with the filing requirements in section 8 of the Trademark Act of 1946, the period for filing a renewal request is expressly defined as the period one year prior to expiration of the period for which the registration was issued or renewed, or within a grace period of six months after the end of the expiring period.

Subsection 9(c)—Appointment of Domestic Representatives

Subsection 6(b) of this Act amends subsection 9(c) to the Trademark Act of 1946 to provide for the appointment of a domestic representative for service of notices or process in proceedings affecting the mark by owners not domiciled in the United States, rather than referencing the requirements in subsection 1(e) of the Trademark Act of 1946. This is preferable because the appointment required in subsection 1(e) of the Trademark Act of 1946 pertains only during the pendency of the application.

SECTION 7. RECORDING ASSIGNMENT OF MARK

This section amends section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) to clarify that the PTO will record a change in ownership without requiring a copy of the underlying document; and to remove the proscription against the assignment of a mark in an application filed under section 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(b)) (intent-to-use) upon the filing of an amendment to allege use pursuant to section 1(c) of the Trademark Act of 1946 (15 U.S.C. 1051(c)).

The PTO has interpreted the present reference to a "record of assignments" in section 10 to require the PTO to record a copy of the actual assignment document. Article 11(4) of Trademark Law Treaty prohibits the requirement of a statement or proof of such transfer in order to record an assignment of a trademark registration. The proposed amendment clarifies that, rather than maintaining a "record of assignments," the PTO

"shall maintain a record of the prescribed information on assignments, in such form as may be prescribed by the Commissioner." The proposed amendment authorizes the PTO to determine what information regarding assignments it will record and maintain. The proposed amendment will ensure that a transfer of goodwill remains a necessary element of a valid assignment of a trademark; however, the PTO will not require a statement or proof of the transfer of goodwill in order to record an assignment of a trademark registration.

Additionally, pertaining to the proscription against the assignment of a mark in an application filed under section 1(b) of the Trademark Act of 1946 (intent-to-use), the proposed amendment adds reference to section 1(c) of the Trademark Act of 1946 so that the filing of an amendment to allege use pursuant to section 1(c) removes the restriction against assigning the mark except to the successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. Presently, prior to registration of an application filed pursuant to section 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(b)) based upon a bona fide intention to use a mark in commerce on the identified goods or services, an applicant must file either a verified statement of use under section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)) or an amendment to allege use under section 1(c) of the Trademark Act of 1946 (15 U.S.C. 1051(c)). The substance of the two filings is essentially the same. The difference between the two filings is the point at which the filing is made. Presently, section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) limits the assignability of an application to register a mark under section 1(b) of the Trademark Act of 1946 (15 U.S.C. 1051(b)) until such time as applicant files a verified statement of use under section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)). Since the effect of the filing of an amendment to allege use under section 1(c) of the Trademark Act of 1946 (15 U.S.C. 1051(c)) is analogous, there is no reason in law or policy for omitting to include reference to section 1(c) in section 10.

SECTION 8. INTERNATIONAL CONVENTIONS; COPY OF FOREIGN REGISTRATION

This section amends section 44(e) of the Trademark Act of 1946 (15 U.S.C. 1126(e)) to change the requirement that an application "be accompanied by a certificate or certified copy" of the foreign registration, which has been interpreted to be a filing date requirement, so that such copy may be submitted to the PTO prior to registration, within such time limits as may be prescribed by the Commissioner. Such a requirement as a prerequisite to receiving a filing date is prohibited pursuant to Article 5 of the Trademark Law Treaty.

SECTION 9. TRANSITION PROVISIONS

This section clarifies when and how the new provisions set out for the maintenance of registrations will apply to existing and future applications and registrations.

Section 9(a) provides that registrations issued or renewed with a 20 year term, i.e. those registrations issued or renewed prior to the effective date of the Trademark Law Revision Act of 1988, will be subject to the post-registration provisions of this Act on or after a date that is 1 year before the date on which the twenty year term expires. This provision will allow those registrations to have the benefit of the one year statutory filing period and the six-month grace period provided by the Act.

Section 9(b) provides that the Act shall apply to any application for the registration of a trademark pending on, or filed after, the effective date of the Act.

Section 9(c) provides that the filing of an affidavit under Section 5 of the Act, which amends Section 8(b) of the Trademark Act of 1946, shall be required for any registration if the sixth or tenth anniversary of the registration, or the sixth anniversary of publication under section 12(c) of the Trademark Act of 1946, occurs on or after the effective date of this Act.

Section 9(d) provides that the amendment made by section 6 of this Act shall apply to the filing of an application for the renewal of a registration if the expiration date of the registration for which the renewal application is filed is on or after the effective date of this Act.

SECTION 10. EFFECTIVE DATE

This section provides that this Act shall take effect one year after enactment of the Act or upon entry into force of the Treaty in respect to the United States, whichever occurs first. Since the provisions of the Act will modernize and simplify procedures pertaining to trademark application filing and registration maintenance, this section provides that, if the U.S. has not acceded to the treaty and become subject to the obligations thereunder within a year after enactment, the Act will become effective so that its benefits can be realized by trademark owners.

Since the United States is not one of the first five States to deposit its instrument of ratification or accession, Article 20 of the Treaty provides that the Treaty shall enter into force three months after the date on which the instrument of ratification or accession is deposited.

Mr. LEAHY. Mr. President, I am pleased today to introduce the Trademark Law Treaty Implementation and Registration Simplification Act (TLT Act). The TLT Act, which will implement the Trademark Law Treaty of 1994, is an important step in our continuing endeavor to harmonize trademark law around the world so that American businesses—particularly small American businesses—seeking to expand internationally will face simplified and straightforward trademark registration procedures in foreign countries.

This bill is one of a series I have supported which protect American trademark holders in a world of rapidly changing technology and international competition. Earlier this year I introduced S. 1727, legislation authorizing the National Research Council of the National Academy of Sciences to conduct a comprehensive study of the effects of adding new generic Top Level Domains on trademark and other intellectual property rights owners. Moreover, I supported the Federal Trademark Dilution Act of 1995, which was enacted into law last Congress. This legislation provides intellectual property rights holders with the power to enjoin another person's commercial use of famous marks that would cause dilution of the mark's distinctive quality. Together, these measures represent efforts to refine American trademark law to ensure that it promotes American interests.

Today more than ever before, trademarks are among the most valuable assets of business. One of the major obstacles in securing international trademark protection is the difficulty and cost involved in obtaining and maintaining a registration in each and every country. Countries around the world have a number of varying requirements for filing trademark applications, many of which are non-substantive and very confusing. Because of these difficulties, many U.S. businesses, especially smaller businesses, are forced to concentrate their efforts on registering their trademarks only in certain major countries while pirates freely register their marks in other countries.

The Trademark Law Treaty will eliminate many of the arduous registration requirements of foreign countries by enacting a list of maximum requirements for trademark procedures. Eliminating needless formalities will be an enormous step in the direction of a rational trademark system which will benefit American business, especially smaller businesses, to expand into the international market more freely. Fortunately, the Trademark Law Treaty has already been signed by thirty-five countries, has already been ratified by ten countries including Japan and the United Kingdom, and has already been reported favorably to the full Senate by the Senate Foreign Affairs Committee.

As the United States is already in accordance with most of the Trademark Law Treaty requirements, the TLT Act would impose only minor changes to U.S. trademark law. The Patent and Trademark Office, the International Trademark Association and the American Intellectual Property Law Association have indicated their support for the TLT Act.

I hope the Senate will consider and pass this bill expeditiously.

ADDITIONAL COSPONSORS

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 472

At the request of Mr. CRAIG, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 472, a bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

S. 617

At the request of Mr. JOHNSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require

that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 778

At the request of Mr. LUGAR, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 981

At the request of Mr. LEVIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1825

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1825, a bill to amend title 10, United States Code, to provide sufficient funding to assure a minimum size for honor guard details at funerals of veterans of the Armed Forces, to establish the minimum size of such details, and for other purposes.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1868, a bill 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; and for other purposes.

S. 1924

At the request of Mr. MACK, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2092

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2092, a bill to promote full equality at the United Nations for Israel.

S. 2110

At the request of Mr. BIDEN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2128

At the request of Mr. STEVENS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2162

At the request of Mr. MACK, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2162, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

SENATE JOINT RESOLUTION 49

At the request of Mr. SMITH, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of Senate Joint Resolution 49, a joint resolution proposing a constitutional amendment to protect human life.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from Indiana (Mr. LUGAR), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE RESOLUTION 251—CONGRATULATING THE DETROIT RED WINGS ON WINNING THE 1998 NATIONAL HOCKEY LEAGUE STANLEY CUP CHAMPIONSHIP

Mr. LEVIN (for himself and Mr. ABRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 251

Whereas on June 16, 1998, the Detroit Red Wings defeated the Washington Capitals, 4–1, in Game 4 of the championship series;

Whereas this victory marks the second year in a row that the Red Wings won the Stanley Cup in a four game sweep;

Whereas the Stanley Cup took its first trip around the rink in the lap of Vladimir Konstantinov, the Red Wing defenseman who was seriously injured in an accident less than a week after Detroit won the Cup last year;

Whereas Vladi and his wife Irina, whose strength and courage are a source of pride and inspiration to our entire community are an exemplary Red Wings family and Vladi's battle is an inspiration to all Americans;

Whereas Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit and Michigan, have brought the Stanley Cup back to Detroit yet again;

Whereas the Red Wings, as one of the original six NHL teams, have always held a special place in the hearts of all Michiganders;

Whereas it was a profound source of pride for Detroit when the Wings brought the Cup back to Detroit in 1954 and 1955, the last time the Wings won consecutive NHL championships;

Whereas today, Detroit continues to provide Red Wings fans with hockey greatness and Detroit, otherwise known as "Hockeytown, U.S.A." is home to the most loyal fans in the world;

Whereas the Red Wings are indebted to Head Coach Scotty Bowman, who has brought the Red Wings to the playoffs 3 times in the last 4 years, and with this year's victory, has earned his eighth Stanley Cup victory, tying him with his mentor Toe Blake for the most championships in league history;

Whereas the Wings are also lucky to have the phenomenal leadership of Team Captain Steve Yzerman, who in his fifteenth season in the NHL, received the Conn Smythe Trophy, given to the most valuable player in the NHL playoffs;

Whereas each one of the Red Wings will be remembered on the premier sports trophy, the Stanley Cup, including Slava Fetisov, Bob Rouse, Nick Lidstrom, Igor Larionov, Mathieu Dandenault, Slava Kozlov, Brendan Shanahan, Dmitri Mironov, Doug Brown, Kirk Maltby, Steve Yzerman, Martin Lapointe, Mike Knuble, Darren McCarty, Joe Kocur, Aaron Ward, Chris Osgood, Kevin Hodson, Kris Draper, Jamie Macoun, Brent Gilchrist, Anders Eriksson, Larry Murphy, Sergei Federov, and Tomas Holmstrom: Now, therefore, be it

Resolved, That the U.S. Senate congratulates the Detroit Red Wings on winning the 1998 National Hockey League Stanley Cup Championship.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

INOUYE AMENDMENT NO. 2713

Mr. GORTON (for Mr. INOUYE) proposed an amendment to the bill (S. 2138) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes; as follows:

On page 18, add the following before the period:

"*:Provided further*, The Secretary of the Interior is directed to use not to exceed $200,000 of funds appropriated herein to provide technical assistance in a study of measures to increase the efficiency of existing water systems developed to serve sugar cane plantations and surrounding communities in the State of Hawaii".

DASCHLE AMENDMENT NO. 2714

Mr. DASCHLE proposed an amendment to the bill, S. 2138, supra; as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Tobacco Policy and Youth Smoking Reduction Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Scope and effect.
Sec. 5. Relationship to other, related Federal, State, local, and Tribal laws.

Sec. 6. Definitions.
Sec. 7. Notification if youthful cigarette smoking restrictions increase youthful pipe and cigar smoking.
Sec. 8. FTC jurisdiction not affected.
Sec. 9. Congressional review provisions.

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

Sec. 101. Amendment of Federal Food, Drug, and Cosmetic Act of 1938.
Sec. 102. Conforming and other amendments to general provisions.
Sec. 103. Construction of current regulations.

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

Sec. 201. Findings.
Sec. 202. Purpose.
Sec. 203. Goals for reducing underage tobacco use.
Sec. 204. Look-back assessment.
Sec. 205. Definitions.

Subtitle B—State Retail Licensing and Enforcement Incentives

Sec. 231. State retail licensing and enforcement block grants.
Sec. 232. Block grants for compliance bonuses.
Sec. 233. Conforming change.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

Sec. 261. Tobacco use prevention and cessation initiatives.

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

Sec. 301. Cigarette label and advertising warnings.
Sec. 302. Authority to revise cigarette warning label Statements.
Sec. 303. Smokeless tobacco labels and advertising warnings.
Sec. 304. Authority to revise smokeless tobacco product warning label statements.
Sec. 305. Tar, nicotine, and other smoke constituent disclosure to the public.

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

Sec. 311. Regulation requirement.

TITLE IV—NATIONAL TOBACCO TRUST FUND

Sec. 401. Establishment of trust fund.
Sec. 402. Payments by industry.
Sec. 403. Adjustments.
Sec. 404. Payments to be passed through to consumers.
Sec. 405. Tax treatment of payments.
Sec. 406. Enforcement for nonpayment.

Subtitle B—General Spending Provisions

Sec. 451. Allocation accounts.
Sec. 452. Grants to States.
Sec. 453. Indian health service.
Sec. 454. Research at the National Science Foundation.
Sec. 455. Medicare cancer patient demonstration project; evaluation and report to Congress.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

Sec. 501. Definitions.
Sec. 502. Smoke-free environment policy.
Sec. 503. Citizen actions.
Sec. 504. Preemption.
Sec. 505. Regulations.
Sec. 506. Effective date.
Sec. 507. State choice.

TITLE VI—APPLICATION TO INDIAN TRIBES

Sec. 601. Short title.
Sec. 602. Findings and purposes.
Sec. 603. Application of title to Indian lands and to Native Americans.

TITLE VII—TOBACCO CLAIMS

Sec. 701. Definitions.
Sec. 702. Application; preemption.
Sec. 703. Rules governing tobacco claims.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

Sec. 801. Accountability requirements and oversight of the tobacco industry.
Sec. 802. Tobacco product manufacturer employee protection.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

Sec. 901. Findings.
Sec. 902. Applicability.
Sec. 903. Document disclosure.
Sec. 904. Document review.
Sec. 905. Resolution of disputed privilege and trade secret claims.
Sec. 906. Appeal of panel decision.
Sec. 907. Miscellaneous.
Sec. 908. Penalties.
Sec. 909. Definitions.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

Sec. 1001. Short title.
Sec. 1002. Definitions.

Subtitle A—Tobacco Community Revitalization

Sec. 1011. Authorization of appropriations.
Sec. 1012. Expenditures.
Sec. 1013. Budgetary treatment.

Subtitle B—Tobacco Market Transition Assistance

Sec. 1021. Payments for lost tobacco quota.
Sec. 1022. Industry payments for all department costs associated with tobacco production.
Sec. 1023. Tobacco community economic development grants.
Sec. 1024. Flue-cured tobacco production permits.
Sec. 1025. Modifications in Federal tobacco programs.

Subtitle C—Farmer and Worker Transition Assistance

Sec. 1031. Tobacco worker transition program.
Sec. 1032. Farmer opportunity grants.

Subtitle D—Immunity

Sec. 1041. General immunity for tobacco producers and tobacco warehouse owners.
Sec. 1042. Assistance for producers experiencing losses of farm income.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

Sec. 1101. Policy.
Sec. 1102. Tobacco control negotiations.
Sec. 1103. Report to Congress.
Sec. 1104. Funding.
Sec. 1105. Prohibition of funds to facilitate the exportation or promotion of tobacco.
Sec. 1106. Health labeling of tobacco products for export.
Sec. 1107. International tobacco control awareness.

Subtitle B—Anti-smuggling Provisions

Sec. 1131. Definitions.
Sec. 1132. Tobacco product labeling requirements.
Sec. 1133. Tobacco product licenses.
Sec. 1134. Prohibitions.
Sec. 1135. Labeling of products sold by Native Americans.
Sec. 1136. Limitation on activities involving tobacco products in foreign trade zones.
Sec. 1137. Jurisdiction; penalties; compromise of liability.
Sec. 1138. Amendments to the Contraband Cigarette Trafficking Act.
Sec. 1139. Funding.
Sec. 1140. Rules and regulations.

Subtitle C—Other Provisions

Sec. 1161. Improving child care and early childhood development.
Sec. 1162. Ban of sale of tobacco products through the use of vending machines.
Sec. 1163. Amendments to the Employee Retirement Income Security Act of 1974.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

Sec. 1201. National tobacco trust funds available under future legislation.

TITLE XIII—VETERANS' BENEFITS

Sec. 1301. Recovery by Secretary of Veterans' Affairs.

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT

Sec. 1401. Conferral of benefits on participating tobacco product manufacturers in return for their assumption of specific obligations.
Sec. 1402. Participating tobacco product manufacturer.
Sec. 1403. General provisions of protocol.
Sec. 1404. Tobacco product labeling and advertising requirements of protocol.
Sec. 1405. Point-of-sale requirements.
Sec. 1406. Application of title.
Sec. 1407. Governmental claims.
Sec. 1408. Addiction and dependency claims; Castano Civil Actions.
Sec. 1409. Substantial non-attainment of required reductions.
Sec. 1410. Public health emergency.
Sec. 1411. Tobacco claims brought against participating tobacco product manufacturers.
Sec. 1412. Payment of tobacco claim settlements and judgments.
Sec. 1413. Attorneys' fees and expenses.
Sec. 1414. Effect of court decisions.
Sec. 1415. Criminal laws not affected.
Sec. 1416. Congress reserves the right to enact laws in the future.
Sec. 1417. Definitions.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of epic and worsening proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under Article I, Section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) The citizens of the several States are exposed to, and adversely affected by, environmental smoke in public buildings and other facilities which imposes a burden on interstate commerce.

(13) Civil actions against tobacco product manufacturers and others are pending in Federal and State courts arising from the use, marketing, and sale of tobacco products. Among these actions are cases brought by the attorneys general of more than 40 States, certain cities and counties, and the Commonwealth of Puerto Rico, and other parties, including Indian tribes, and class actions brought by private claimants (such as in the Castano Civil Actions), seeking to recover monies expended to treat tobacco-related diseases and for the protection of minors and consumers, as well as penalties and other relief for violations of antitrust, health, consumer protection, and other laws.

(14) Civil actions have been filed throughout the United States against tobacco product manufacturers and their distributors, trade associations, law firms, and consultants on behalf of individuals or classes of individuals claiming to be dependent upon and injured by tobacco products.

(15) These civil actions are complex, time-consuming, expensive, and burdensome for both the litigants and Federal and State courts. To date, these civil actions have not resulted in sufficient redress for smokers or non-governmental third-party payers. To the extent that governmental entities have been or may in the future be compensated for tobacco-related claims they have brought, it is not now possible to identify what portions of such past or future recoveries can be attributed to their various antitrust, health, consumer protection, or other causes of action.

(16) It is in the public interest for Congress to adopt comprehensive public health legislation because of tobacco's unique position in the Nation's history and economy; the need to prevent the sale, distribution, marketing and advertising of tobacco products to persons under the minimum legal age to purchase such products; and the need to educate the public, especially young people, regarding the health effects of using tobacco products.

(17) The public interest requires a timely, fair, equitable, and consistent result that will serve the public interest by (A) providing that a portion of the costs of treatment for diseases and adverse health effects associated with the use of tobacco products is borne by the manufacturers of these products, and (B) restricting throughout the Nation the sale, distribution, marketing, and advertising of tobacco products only to persons of legal age to purchase such products.

(18) Public health authorities estimate that the benefits to the Nation of enacting Federal legislation to accomplish these goals would be significant in human and economic terms.

(19) Reducing the use of tobacco by minors by 50 percent would prevent well over 60,000 early deaths each year and save up to $43 billion each year in reduced medical costs, improved productivity, and the avoidance of premature deaths.

(20) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(21) In 1995, the tobacco industry spent close to $4,900,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(22) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(23) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(24) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(25) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(26) Tobacco advertising increases the size of the tobacco market by increasing consumption of tobacco products including increasing tobacco use by young people.

(27) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands, and children as young as 3 to 6 years old can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(28) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market.

(29) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(30) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(31) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones. Text-only requirements, while not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(32) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(33) If, as a direct or indirect result of this Act, the consumption of tobacco products in the United States is reduced significantly, then tobacco farmers, their families, and their communities may suffer economic hardship and displacement, notwithstanding their lack of involvement in the manufacturing and marketing of tobacco products.

(34) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to clarify the authority of the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to require the tobacco industry to fund both Federal and State oversight of the tobacco industry from on-going payments by tobacco product manufacturers;

(3) to require tobacco product manufacturers to provide ongoing funding to be used for an aggressive Federal, State, and local enforcement program and for a nationwide licensing system to prevent minors from obtaining tobacco products and to prevent the unlawful distribution of tobacco products, while expressly permitting the States to adopt additional measures that further restrict or eliminate the products' use;

(4) to ensure that the Food and Drug Administration and the States may continue to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(5) to impose financial surcharges on tobacco product manufacturers if tobacco use by young people does not substantially decline;

(6) to authorize appropriate agencies of the Federal government to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(7) to provide new and flexible enforcement authority to ensure that the tobacco industry makes efforts to develop and introduce less harmful tobacco products;

(8) to confirm the Food and Drug Administration's authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(9) in order to ensure that adults are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(10) to impose on tobacco product manufacturers the obligation to provide funding for a variety of public health initiatives;

(11) to establish a minimum Federal standard for stringent restrictions on smoking in

public places, while also to permit State, Tribal, and local governments to enact additional and more stringent standards or elect not to be covered by the Federal standard if that State's standard is as protective, or more protective, of the public health;

(12) to authorize and fund from payments by tobacco product manufacturers a continuing national counter-advertising and tobacco control campaign which seeks to educate consumers and discourage children and adolescents from beginning to use tobacco products, and which encourages current users of tobacco products to discontinue using such products;

(13) to establish a mechanism to compensate the States in settlement of their various claims against tobacco product manufacturers;

(14) to authorize and to fund from payments by tobacco product manufacturers a nationwide program of smoking cessation administered through State and Tribal governments and the private sector;

(15) to establish and fund from payments by tobacco product manufacturers a National Tobacco Fund;

(16) to affirm the rights of individuals to access to the courts, to civil trial by jury, and to damages to compensate them for harm caused by tobacco products;

(17) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(18) to impose appropriate regulatory controls on the tobacco industry; and

(19) to protect tobacco farmers and their communities from the economic impact of this Act by providing full funding for and the continuation of the Federal tobacco program and by providing funds for farmers and communities to develop new opportunities in tobacco-dependent communities.

SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—This Act is not intended to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) except as provided in this Act, affect any action pending in State, Tribal, or Federal court, or any agreement, consent decree, or contract of any kind.

(b) TAXATION.—Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect any authority of the Secretary of the Treasury (including any authority assigned to the Bureau of Alcohol, Tobacco and Firearms) or of State or local governments with regard to taxation for tobacco or tobacco products.

(c) AGRICULTURAL ACTIVITIES.—The provisions of this Act which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

SEC. 5. RELATIONSHIP TO OTHER, RELATED FEDERAL, STATE, LOCAL, AND TRIBAL LAWS.

(a) AGE RESTRICTIONS.—Nothing in this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), as amended by this Act, shall prevent a Federal agency (including the Armed Forces), a State or its political subdivisions, or the government of an Indian tribe from adopting and enforcing additional measures that further restrict or prohibit tobacco product sale to, use by, and accessibility to persons under the legal age of purchase established by such agency, State, subdivision, or government of an Indian tribe.

(b) ADDITIONAL MEASURES.—Except as otherwise expressly provided in this Act, nothing in this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or rules promulgated under such Acts, shall limit the authority of a Federal agency (including the Armed Forces), a State or its political subdivisions, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products, including laws, rules, regulations, or other measures relating to or prohibiting the sale, distribution, possession, exposure to, or use of tobacco products by persons of any age that are in addition to the provisions of this Act and the amendments made by this Act. No provision of this Act or amendment made by this Act shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

(c) NO LESS STRINGENT.—Nothing in this Act or the amendments made by this Act is intended to supersede any State, local, or Tribal law that is not less stringent than this Act, or other Acts as amended by this Act.

(d) STATE LAW NOT AFFECTED.—Except as otherwise expressly provided in this Act, nothing in this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), or rules promulgated under such Acts, shall supersede the authority of the States, pursuant to State law, to expend funds provided by this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) BRAND.—The term "brand" means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

(2) CIGARETTE.—The term "cigarette" has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

(3) CIGARETTE TOBACCO.—The term "cigarette tobacco" means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

(4) COMMERCE.—The term "commerce" has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

(5) DISTRIBUTOR.—The term "distributor" as regards a tobacco product means any person who furthers the distribution of cigarette or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this Act.

(6) INDIAN COUNTRY; INDIAN LANDS.—The terms "Indian country" and "Indian lands" have the meaning given the term "Indian country" by section 1151 of title 18, United States Code, and includes lands owned by an Indian tribe or a member thereof over which the United States exercises jurisdiction on behalf of the tribe or tribal member.

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(8) LITTLE CIGAR.—The term "little cigar" has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

(9) NICOTINE.—The term "nicotine" means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

(10) PACKAGE.—The term "package" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which cigarettes or smokeless tobacco are offered for sale, sold, or otherwise distributed to consumers.

(11) POINT-OF-SALE.—The term "point-of-sale" means any location at which a consumer can purchase or otherwise obtain cigarettes or smokeless tobacco for personal consumption.

(12) RETAILER.—The term "retailer" means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

(13) ROLL-YOUR-OWN TOBACCO.—The term "roll-your-own tobacco" means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(14) SECRETARY.—Except in title VII and where the context otherwise requires, the term "Secretary" means the Secretary of Health and Human Services.

(15) SMOKELESS TOBACCO.—The term "smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

(16) STATE.—The term "State" means any State of the United States and, for purposes of this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

(17) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigarette tobacco, smokeless tobacco, little cigars, roll-your-own tobacco, and fine cut products.

(18) TOBACCO PRODUCT MANUFACTURER.—Except in titles VII, X, and XIV, the term "tobacco product manufacturer" means any person, including any repacker or relabeler, who—

(A) manufactures, fabricates, assembles, processes, or labels a finished cigarette or smokeless tobacco product; or

(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

(19) UNITED STATES.—The term "United States" means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

SEC. 7. NOTIFICATION IF YOUTHFUL CIGARETTE SMOKING RESTRICTIONS INCREASE YOUTHFUL PIPE AND CIGAR SMOKING.

The Secretary shall notify the Congress if the Secretary determines that underage use of pipe tobacco and cigars is increasing.

SEC. 8. FTC JURISDICTION NOT AFFECTED.

(a) IN GENERAL.—Except where expressly provided in this Act, nothing in this Act shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

(b) ENFORCEMENT BY FTC.—Any advertising that violates this Act or part 897 of title 21, Code of Federal Regulations, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

SEC. 9. CONGRESSIONAL REVIEW PROVISIONS.

In accordance with section 801 of title 5, United States Code, the Congress shall review, and may disapprove, any rule under this Act that is subject to section 801. This section does not apply to the rule set forth in part 897 of title 21, Code of Federal Regulations.

TITLE I—REGULATION OF THE TOBACCO INDUSTRY

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT OF 1938.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).".

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS

"(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

"(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

"(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

"(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the provisions of part 897 of title 21, Code of Federal Regulations, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

"(c) SCOPE.—

"(1) Nothing in this chapter, any policy issued or regulation promulgated thereunder, or the National Tobacco Policy and Youth Smoking Reduction Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V of the Federal Food, Drug and Cosmetic Act or any other chapter of that Act.

"(2) The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority whatsoever to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer. Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer. Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

"A tobacco product shall be deemed to be adulterated if—

"(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

"(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

"(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

"(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

"(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

"(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

"(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

"(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

"(1) if its labeling is false or misleading in any particular;

"(2) if in package form unless it bears a label containing—

"(A) the name and place of business of the tobacco product manufacturer, packer, or distributor; and

"(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count,

except that under subparagraph (B) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

"(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

"(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

"(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

"(7) if, in the case of any tobacco product distributed or offered for sale in any State—

"(A) its advertising is false or misleading in any particular; or

"(B) it is sold, distributed, or used in violation of regulations prescribed under section 906(d);

"(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

"(A) a true statement of the tobacco product's established name as defined in paragraph (4) of this subsection, printed prominently; and

"(B) a brief statement of—

"(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

"(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

"(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

"(10) if there was a failure or refusal—

"(A) to comply with any requirement prescribed under section 904 or 908;

"(B) to furnish any material or information required by or under section 909; or

"(C) to comply with a requirement under section 912.

"(b) PRIOR APPROVAL OF STATEMENTS ON LABEL.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require

prior approval by the Secretary of the content of any advertisement and no advertisement of a tobacco product, published after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall, with respect to the matters specified in this section or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55). This subsection does not apply to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

"SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

"(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

"(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

"(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

"(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

"(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

"(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

"(b) ANNUAL SUBMISSION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

"(c) TIME FOR SUBMISSION.—

"(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of this chapter, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

"(2) MODIFICATION OF EXISTING PRODUCTS.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

"SEC. 905. ANNUAL REGISTRATION.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

"(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

"(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

"(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) of this section shall list such tobacco products in accordance with such system.

"(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

"(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

"(h) FOREIGN ESTABLISHMENTS MAY REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

"(i) REGISTRATION INFORMATION.—

"(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), or (d) of this section shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

"(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

"(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

"(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

"(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

"(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1) of this subsection. A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

"(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

"(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco

product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

"(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

"(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY-EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

"(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

"(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act; and

"(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

"(2) APPLICATION TO CERTAIN POST-AUGUST 11TH PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

"SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

"(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

"(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

"(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

"(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

"(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

"(d) RESTRICTIONS.—

"(1) The Secretary may by regulation require that a tobacco product be restricted to sale, distribution, or use upon such conditions, including restrictions on the access to, and the advertising and promotion of, the tobacco product, as the Secretary may prescribe in such regulation if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that such regulation would be appropriate for the protection of the public health. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such condition may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

"(2) The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

"(3) No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to face transactions by a specific category of retail outlets.

"(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

"(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

"(A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

"(B) The Secretary shall—

"(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

"(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

"(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

"(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities; and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

"(2) EXEMPTIONS; VARIANCES.—

"(A) Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

"(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

"(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

"(iii) contain such other information as the Secretary shall prescribe.

"(B) The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

"(i) the date the petition was submitted to the Secretary under subparagraph (A); or

"(ii) the day after the petition was referred to an advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

"(C) The Secretary may approve—

"(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

"(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

"(D) An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

"(E) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

"(3) Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act.

"(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation.

"(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

"SEC. 907. PERFORMANCE STANDARDS.

"(a) IN GENERAL.—

"(1) FINDING REQUIRED.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

"(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

"(i) for the reduction or elimination of nicotine yields of the product;

"(ii) for the reduction or elimination of other constituents or harmful components of the product; or

"(iii) relating to any other requirement under (B);

"(B) shall, where necessary to be appropriate for the protection of the public health, include—

"(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

"(iii) provisions for the measurement of the performance characteristics of the tobacco product;

"(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

"(3) PERIODIC RE-EVALUATION OF PERFORMANCE STANDARDS.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

"(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

"(A) use personnel, facilities, and other technical support available in other Federal agencies;

"(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

"(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

"(b) ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE.—

(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

"(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

"(D) The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

"(E) The Secretary shall provide for a comment period of not less than 60 days.

"(2) PROMULGATION.—

"(A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

"(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

"(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

"(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

"(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

"(B) requiring the reduction of nicotine yields of a tobacco product to zero,

it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

"(4) AMENDMENT; REVOCATION.—

"(A) The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B) of this subsection, amend or revoke a performance standard.

"(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

"(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

"(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

"(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to an advisory committee, for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES

"(a) NOTIFICATION.—If the Secretary determines that—

"(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

"(c) RECALL AUTHORITY.—

"(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

"(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(B) An amended order under subparagraph (A)—

"(i) shall not include recall of a tobacco product from individuals; and

"(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

"(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

"(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

"(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

"(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

"(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

"(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

"(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

"(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(b) REPORTS OF REMOVALS AND CORRECTIONS.—

(1) Except as provided in paragraph (3), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the tobacco product; or

"(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a) of this section.

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

"(a) IN GENERAL.—

"(1) PREMARKET APPROVAL REQUIRED.—

"(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of August 11, 1995, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of August 11, 1995, that is in compliance with the requirements of this Act.

"(B) PRODUCTS INTRODUCED BETWEEN AUGUST 11, 1995, AND ENACTMENT OF THIS CHAPTER.—Subparagraph (A) does not apply to a tobacco product that—

"(i) was first introduced or delivered for introduction into interstate commerce for commerce for commercial distribution in the United States after August 11, 1995, and before the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act; and

"(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

"(2) SUBSTANTIALLY EQUIVALENT DEFINED.—

"(A) For purposes of this section and section 905(j), the term 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

"(i) has the same characteristics as the predicate tobacco product; or

"(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

"(B) For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

"(C) A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

"(3) HEALTH INFORMATION.—

"(A) As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

"(B) Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

"(b) APPLICATION.—

"(1) CONTENTS.—An application for premarket approval shall contain—

"(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

"(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

"(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

"(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

"(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

"(F) specimens of the labeling proposed to be used for such tobacco product; and

"(G) such other information relevant to the subject matter of the application as the Secretary may require.

"(2) REFERENCE TO ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

"(A) may, on the Secretary's own initiative; or

"(B) shall, upon the request of an applicant,

refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

"(c) ACTION ON APPLICATION.—

"(1) DEADLINE.—

"(A) As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b) of this section, the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

"(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

"(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

"(B) An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

"(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

"(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

"(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

"(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

"(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

"(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

"(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

"(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

"(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

"(5) BASIS FOR ACTION.—

"(A) For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

"(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

"(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

"(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

"(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

"(B) that the application contained or was accompanied by an untrue statement of a material fact;

"(C) that the applicant—

"(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

"(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

"(iii) has not complied with the requirements of section 905;

"(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

"(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

"(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

"(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with subsection (e) of this section.

"(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

"(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

"(1) in person by any officer or employee of the department designated by the Secretary; or

"(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

"SEC. 911. JUDICIAL REVIEW.

"(a) IN GENERAL.—Not later than 30 days after—

"(1) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

"(2) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be

transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance. For purposes of this section, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

"(b) COURT MAY ORDER SECRETARY TO MAKE ADDITIONAL FINDINGS.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

"(c) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) of this section shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

"(d) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(e) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"(f) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

"SEC. 912. POSTMARKET SURVEILLANCE

"(a) DISCRETIONARY SURVEILLANCE.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

"(b) SURVEILLANCE APPROVAL.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) of this section shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

"SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

"(a) REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'reduced risk tobacco product' means a tobacco product designated by the Secretary under paragraph (2).

"(2) DESIGNATION.—

"(A) IN GENERAL.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

"(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products in the same category as the proposed reduced risk product; and

"(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

"(B) BASIS FOR FINDING.—In making the finding under subparagraph (A), the Secretary shall take into account—

"(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

"(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

"(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

"(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

"(3) MARKETING REQUIREMENTS.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

"(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

"(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

"(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and other provisions of this chapter as prescribed by the Secretary.

"(b) REVOCATION OF DESIGNATION.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

"(1) the finding made under subsection (a)(2) is no longer valid; or

"(2) the product is being marketed in violation of subsection (a)(3).

"(c) LIMITATION.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

"(d) DEVELOPMENT OF REDUCED RISK TOBACCO PRODUCT TECHNOLOGY.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a 'reduced risk tobacco product' under subsection (a).

"SEC. 914. PRESERVATION OF STATE AND LOCAL AUTHORITY.

"(a) ADDITIONAL REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this Act shall be construed as prohibiting a State or political subdivision thereof from adopting or enforcing a requirement applicable to a tobacco product that is in addition to, or more stringent than, requirements established under this chapter.

"(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

"(A) Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

"(B) Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

"(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

"(c) WAIVERS.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

"(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(3) which would be applicable to the tobacco product if

an exemption were not in effect under this subsection; or

"(2) the requirement—

"(A) is required by compelling local conditions; and

"(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

"SEC. 915. EQUAL TREATMENT OF RETAIL OUTLETS.

"The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.".

SEC. 102. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) by inserting "tobacco product," in subsection (a) after "device,";

(2) by inserting "tobacco product," in subsection (b) after "device,";

(3) by inserting "tobacco product," in subsection (c) after "device,";

(4) by striking "515(f), or 519" in subsection (e) and inserting "515(f), 519, or 909";

(5) by inserting "tobacco product," in subsection (g) after "device,";

(6) by inserting "tobacco product," in subsection (h) after "device,";

(7) by striking "708, or 721" in subsection (j) and inserting "708, 721, 904, 905, 906, 907, 908, or 909";

(8) by inserting "tobacco product," in subsection (k) after "device,";

(9) by striking subsection (p) and inserting the following:

"(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(J)(2).";

(10) by striking subsection (q)(1) and inserting the following:

"(q)(1) The failure or refusal—

"(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

"(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

"(C) to comply with a requirement under section 522 or 912.";

(11) by striking "device," in subsection (q)(2) and inserting "device or tobacco product,";

(12) by inserting "or tobacco product" in subsection (r) after "device" each time that it appears; and

(13) by adding at the end thereof the following:

"(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).".

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by amending the caption to read as follows:

"(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—";

(2) by inserting "or tobacco products" after "devices" in paragraph (1)(A);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

"(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).";

(4) by striking "assessed" the first time it appears in subparagraph (A) of paragraph (4), as redesignated, and inserting "assessed, or a no-tobacco-sale order may be imposed,";

(5) by striking "penalty" in such subparagraph and inserting "penalty, or upon whom a no-tobacco-order is to be imposed,";

(6) by inserting after "penalty," in subparagraph (B) of paragraph (4), as redesignated, the following: "or the period to be covered by a no-tobacco-sale order,";

(7) by adding at the end of such subparagraph the following: "A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.";

(8) by adding at the end of paragraph (4), as redesignated, the following:

"(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.";

(9) by striking "(3)(A)" in paragraph (5), as resdesignated, and inserting "(4)(A)";

(10) by inserting "or the imposition of a no-tobacco-sale order" after "penalty" the first 2 places it appears in such paragraph;

(11) by striking "issued." in such paragraph and inserting "issued, or on which the no-tobacco-sale order was imposed, as the case may be."; and

(12) by striking "paragraph (4)" each place it appears in paragraph (6), as redesignated, and inserting "paragraph (5)".

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) by striking "and" before "(D)" in subsection (a)(2);

(2) by striking "device." in subsection (a)(2) and inserting a comma and "(E) Any adulterated or misbranded tobacco product.";

(3) by inserting "tobacco product," in subsection (d)(1) after "device,";

(4) by inserting "or tobacco product" in subsection (g)(1) after "device" each place it appears; and

(5) by inserting "or tobacco product" in subsection (g)(2)(A) after "device" each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.".

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting "tobacco product," after "device," each place it appears; and

(2) by inserting "tobacco products," after "devices," each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) by inserting "tobacco products," in subsection (a)(1)(A) after "devices," each place it appears;

(2) by inserting "or tobacco products" in subsection (a)(1)(B) after "restricted devices" each place it appears; and

(3) by inserting "tobacco product," in subsection (b) after "device,".

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(i) SECTION 709.—Section 709 (21 U.S. C. 379) is amended by inserting "or tobacco product" after "device".

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) by inserting "tobacco products," after "devices," in subsection (a) the first time it appears;

(2) by inserting "or subsection (j) of section 905" in subsection (a) after "section 510"; and

(3) by striking "drugs or devices" each time it appears in subsection (a) and inserting "drugs, devices, or tobacco products";

(4) by inserting "tobacco product," in subsection (e)(1) after "device,";

(5) by redesignating paragraph (4) of subsection (e) as paragraph (5) and inserting after paragraph (3), the following:

"(4) Paragraph (1) does not apply to any tobacco product—

"(A) which does not comply with an applicable requirement of section 907 or 910; or

"(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.".

(k) SECTION 802.—Section 802 (21 U.S.C. 382) is amended—

(1) by striking "device—" in subsection (a) and inserting "device or tobacco product—";

(2) by striking "and" after the semicolon in subsection (a)(1)(C);

(3) by striking subparagraph (C) of subsection (a)(2) and all that follows in that subsection and inserting the following:

"(C) is a banned device under section 516; or

"(3) which, in the case of a tobacco product—

"(A) does not comply with an applicable requirement of section 907 or 910; or

"(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.";

(4) by inserting "or tobacco product" in subsection (b)(1)(A) after "device" each time it appears;

(5) by inserting "or tobacco product" in subsection (c) after "device" and inserting "or section 906(f)" after "520(g).";

(6) by inserting "or tobacco product" in subsection (f) after "device" each time it appears; and

(7) by inserting "or tobacco product" in subsection (g) after "device" each time it appears.

(l) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting a comma and "and tobacco products" after "devices".

(m) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) thereof, shall take effect only upon the promulgation of final regulations by the Secretary—

(1) defining the term "repeated violation", as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

SEC. 103. CONSTRUCTION OF CURRENT REGULATIONS.

(a) IN GENERAL.—The final regulations promulgated by the Secretary in the August 28, 1996, issue of the Federal Register (62 Fed. Reg. 44615–44618) and codified at part 897 of title 21, Code of Federal Regulations, are hereby deemed to be lawful and to have been lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, and not under chapter V of the Federal Food, Drug, and Cosmetic Act. The provisions of part 897 that are not in effect on the date of enactment of this Act shall take effect as in such part or upon such later date as determined by the Secretary by order. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary or the Food and Drug Administration as binding precedent.

(1) The preamble to the proposed rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents" (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled "Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents" (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled "Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination; (61 Fed. Reg. 44619–45318 (August 28, 1996)).

TITLE II—REDUCTIONS IN UNDERAGE TOBACCO USE

Subtitle A—Underage Use

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Reductions in the underage use of tobacco products are critically important to the public health.

(2) Achieving this critical public health goal can be substantially furthered by increasing the price of tobacco products to discourage underage use if reduction targets are not achieved and by creating financial incentives for manufacturers to discourage youth from using their tobacco products.

(3) When reduction targets in underage use are not achieved on an industry-wide basis, the price increases that will result from an industry-wide assessment will provide an additional deterrence to youth tobacco use.

(4) Manufacturer-specific incentives that will be imposed if reduction targets are not met by a manufacturer provide a strong incentive for each manufacturer to make all efforts to discourage youth use of its brands and ensure the effectiveness of the industry-wide assessments.

SEC. 202. PURPOSE.

This title is intended to ensure that, in the event that other measures contained in this Act prove to be inadequate to produce substantial reductions in tobacco use by minors, tobacco companies will pay additional assessments. These additional assessments are designed to lower youth tobacco consumption in a variety of ways: by triggering further increases in the price of tobacco products, by encouraging tobacco companies to work to meet statutory targets for reductions in youth tobacco consumption, and providing support for further reduction efforts.

SEC. 203. GOALS FOR REDUCING UNDERAGE TOBACCO USE.

(a) GOALS.—As part of a comprehensive national tobacco control policy, the Secretary, working in cooperation with State, Tribal, and local governments and the private sector, shall take all actions under this Act necessary to ensure that the required percentage reductions in underage use of tobacco products set forth in this title are achieved.

(b) REQUIRED REDUCTIONS FOR CIGARETTES.—With respect to cigarettes, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Cigarette Use
Years 3 and 4	15 percent
Years 5 and 6	30 percent
Years 7, 8, and 9	50 percent
Year 10 and thereafter	60 percent

(c) REQUIRED REDUCTIONS FOR SMOKELESS TOBACCO.—With respect to smokeless tobacco products, the required percentage reduction in underage use, as set forth in section 204, means—

Calendar Year After Date of Enactment	Required Percentage Reduction as a Percentage of Base Incidence Percentage in Underage Smokeless Tobacco Use
Years 3 and 4	12.5 percent
Years 5 and 6	25 percent
Years 7, 8, and 9	35 percent
Year 10 and thereafter	45 percent

SEC. 204. LOOK-BACK ASSESSMENT.

(a) ANNUAL PERFORMANCE SURVEY.—Beginning no later than 1999 and annually thereafter the Secretary shall conduct a survey, in accordance with the methodology in subsection (d)(1), to determine—

(1) the percentage of all young individuals who used a type of tobacco product within the past 30 days; and

(2) the percentage of young individuals who identify each brand of each type of tobacco product as the usual brand of that type smoked or used within the past 30 days.

(b) ANNUAL DETERMINATION.—The Secretary shall make an annual determination, based on the annual performance survey conducted under subsection (a), of whether the required percentage reductions in underage use of tobacco products for a year have been achieved for the year involved. The determination shall be based on the annual percent prevalence of the use of tobacco products, for the industry as a whole and of particular manufacturers, by young individuals (as determined by the surveys conducted by the Secretary) for the year involved as compared to the base incidence percentages.

(c) CONFIDENTIALITY OF DATA.—The Secretary may conduct a survey relating to tobacco use involving minors. If the information collected in the course of conducting the annual performance survey results in the individual supplying the information or described in it to be identifiable, the information may not be used for any purpose other than the purpose for which it was supplied unless that individual (or that individual's guardian) consents to its use for such other purpose. The information may not be published or released in any other form if the individual supplying the information or described in it is identifiable unless that individual (or that individual's guardian) consents to its publication or release in other form.

(d) METHODOLGY.—

(1) IN GENERAL.—The survey required by subsection (a) shall—

(A) be based on a nationally representative sample of young individuals;

(B) be a household-based, in person survey (which may include computer-assisted technology);

(C) measure use of each type of tobacco product within the past 30 days;

(D) identify the usual brand of each type of tobacco product used within the past 30 days; and

(E) permit the calculation of the actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) based on the point estimates of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) from the annual performance survey.

(2) CRITERIA FOR DEEMING POINT ESTIMATES CORRECT.—Point estimates under paragraph (1)(E) are deemed conclusively to be correct and accurate for calculating actual percentage reductions in underage use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type

of tobacco product of a particular manufacturer) for the purpose of measuring compliance with percent reduction targets and calculating surcharges provided that the precision of estimates (based on sampling error) of the percentage of young individuals reporting use of a type of tobacco product (or, in the case of the manufacturer-specific surcharge, the use of a type of tobacco product of a manufacturer) is such that the 95-percent confidence interval around such point estimates is no more than plus or minus 1 percent.

(3) SURVEY DEEMED CORRECT, PROPER, AND ACCURATE.—A survey using the methodology required by this subsection is deemed conclusively to be proper, correct, and accurate for purposes of this Act.

(4) SECRETARY MAY ADOPT DIFFERENT METHODOLOGY.—The Secretary by notice and comment rulemaking may adopt a survey methodology that is different than the methodology described in paragraph (1) if the different methodology is at least as statistically precise as that methodology.

(e) INDUSTRY-WIDE NON-ATTAINMENT SURCHARGES.—

(1) SECRETARY TO DETERMINE INDUSTRY-WIDE NON-ATTAINMENT PERCENTAGE.—The Secretary shall determine the industry-wide non-attainment percentage for cigarettes and for smokeless tobacco for each calendar year.

(2) NON-ATTAINMENT SURCHARGE FOR CIGARETTES.—For each calendar year in which the percentage reduction in underage use required by section 203b) is not attained, the Secretary shall assess a surcharge on cigarette manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$80,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$400,000,000, plus $160,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$1,200,000,000, plus $240,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$4,000,000,000

(3) NON-ATTAINMENT SURCHARGE FOR SMOKELESS TOBACCO.—For each year in which the percentage reduction in underage use required by section 203c) is not attained, the Secretary shall assess a surcharge on smokeless tobacco product manufacturers as follows:

If the non-attainment percentage is:	The surcharge is:
Not more than 5 percent	$8,000,000 multiplied by the non-attainment percentage
More than 5% but not more than 10%	$40,000,000, plus $16,000,000 multiplied by the non-attainment percentage in excess of 5% but not in excess of 10%
More than 10%	$120,000,000, plus $24,000,000 multiplied by the non-attainment percentage in excess of 10%
More than 21.6%	$400,000,000

(4) STRICT LIABILITY; JOINT AND SEVERAL LIABILITY.—Liability for any surcharge imposed under subsection (e) shall be—

(A) strict liability; and

(B) joint and several liability—

(i) among all cigarette manufacturers for surcharges imposed under subsection (e)(2); and

(ii) among all smokeless tobacco manufacturers for surcharges imposed under subsection (e)(3).

(5) SURCHARGE LIABILITY AMONG MANUFACTURERS.—A tobacco product manufacturer shall be liable under this subsection to one or more other manufacturers if the plaintiff tobacco product manufacturer establishes by a preponderance of the evidence that the defendant tobacco product manufacturer, through its acts or omissions, was responsible for a disproportionate share of the non-attainment surcharge as compared to the responsibility of the plaintiff manufacturer.

(6) EXEMPTIONS FOR SMALL MANUFACTURERS.—

(A) ALLOCATION BY MARKET SHARE.—The Secretary shall make such allocations according to each manufacturer's share of the domestic cigarette or domestic smokeless tobacco market, as appropriate, in the year for which the surcharge is being assessed, based on actual Federal excise tax payments.

(B) EXEMPTION.—In any year in which a surcharge is being assessed, the Secretary shall exempt from payment any tobacco product manufacturer with less than 1 percent of the domestic market share for a specific category of tobacco product unless the Secretary finds that the manufacturer's products are used by underage individuals at a rate equal to or greater than the manufacturer's total market share for the type of tobacco product.

(f) MANUFACTURER-SPECIFIC SURCHARGES.—

(1) REQUIRED PERCENTAGE REDUCTIONS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act shall reduce the percentage of young individuals who use such manufacturer's brand or brands as their usual brand in accordance with the required percentage reductions described under subsections (b) (with respect to cigarettes) and (c) (with respect to smokeless tobacco).

(2) APPLICATION TO LESS POPULAR BRANDS.—Each manufacturer which manufactured a brand or brands of tobacco product on or before the date of the enactment of this Act for which the base incidence percentage is equal to or less than the de minimis level shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand remains equal to or less than the de minimis level described in paragraph (4).

(3) NEW ENTRANTS.—Each manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the percent prevalence of young individuals who use the manufacturer's tobacco products as their usual brand is equal to or less than the de minimis level.

(4) DE MINIMIS LEVEL DEFINED.—The de minimis level is equal to 1 percent prevalence of the use of each manufacturer's brands of tobacco product by young individuals (as determined on the basis of the annual performance survey conducted by the Secretary) for a year.

(5) TARGET REDUCTION LEVELS.—

(A) EXISTING MANUFACTURERS.— For purposes of this section, the target reduction level for each type of tobacco product for a year for a manufacturer is the product of the required percentage reduction for a type of tobacco product for a year and the manufacturers base incidence percentage for such tobacco product.

(B) NEW MANUFACTURERS; MANUFACTURERS WITH LOW BASE INCIDENCE PERCENTAGES.—With respect to a manufacturer which begins to manufacture a tobacco product after the date of the enactment of this Act or a manufacturer for which the baseline level as measured by the annual performance survey is equal to or less than the de minimis level described in paragraph (4), the base incidence percentage is the de minimis level, and the required percentage reduction in underage use for a type of tobacco product with respect to a manufacturer for a year shall be deemed to be the number of percentage points necessary to reduce the actual percent prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used for such year to the de minimis level.

(6) SURCHARGE AMOUNT.—

(A) IN GENERAL.—If the Secretary determines that the required percentage reduction in use of a type of tobacco product has not been achieved by such manufacturer for a year, the Secretary shall impose a surcharge on such manufacturer under this paragraph.

(B) AMOUNT.—The amount of the manufacturer-specific surcharge for a type of tobacco product for a year under this paragraph is $1,000, multiplied by the number of young individuals for which such firm is in noncompliance with respect to its target reduction level.

(C) DETERMINATION OF NUMBER OF YOUNG INDIVIDUALS.—For purposes of subparagraph (B) the number of young individuals for which a manufacturer is in noncompliance for a year shall be determined by the Secretary from the annual performance survey and shall be calculated based on the estimated total number of young individuals in such year and the actual percentage prevalence of young individuals identifying a brand of such tobacco product of such manufacturer as the usual brand smoked or used in such year as compared to such manufacturer's target reduction level for the year.

(7) DE MINIMIS RULE.—The Secretary may not impose a surcharge on a manufacturer for a type of tobacco product for a year if the Secretary determines that actual percent prevalence of young individuals identifying that manufacturer's brands of such tobacco product as the usual products smoked or used for such year is less than 1 percent.

(g) SURCHARGES TO BE ADJUSTED FOR INFLATION.—

(1) IN GENERAL.—Beginning with the fourth calendar year after the date of enactment of this Act, each dollar amount in the tables in subsections (e)(2), (e)(3), and (f)(6)(B) shall be increased by the inflation adjustment.

(2) INFLATION ADJUSTMENT.—For purposes of paragraph (1), the inflation adjustment for any calendar year is the percentage (if any) by which—

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1998.

(3) CPI.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(4) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(h) METHOD OF SURCHARGE ASSESSMENT.—The Secretary shall assess a surcharge for a specific calendar year on or before May 1 of the subsequent calendar year. Surcharge payments shall be paid on or before July 1 of the year in which they are assessed. The Secretary may establish, by regulation, interest at a rate up to 3 times the prevailing prime rate at the time the surcharge is assessed, and additional charges in an amount up to 3 times the surcharge, for late payment of the surcharge.

(i) BUSINESS EXPENSE DEDUCTION.—Any surcharge paid by a tobacco product manufacturer under this section shall not be deductible as an ordinary and necessary business expense or otherwise under the Internal Revenue Code of 1986.

(j) APPEAL RIGHTS.—The amount of any surcharge is committed to the sound discretion of the Secretary and shall be subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit, based on the arbitrary and capricious standard of section 706(2)(A) of title 5, United States Code. Notwithstanding any other provisions of law, no court shall have authority to stay any surcharge payments due the Secretary under this Act pending judicial review.

(k) RESPONSIBILITY FOR AGENTS.—In any action brought under this subsection, a tobacco product manufacturer shall be held responsible for any act or omission of its attorneys, advertising agencies, or other agents that contributed to that manufacturer's responsibility for the surcharge assessed under this section.

SEC. 205. DEFINITIONS.

In this subtitle:

(1) BASE INCIDENCE PERCENTAGE.—The term "base incidence percentage" means, with respect to each type of tobacco product, the percentage of young individuals determined to have used such tobacco product in the first annual performance survey for 1999.

(2) MANUFACTURERS BASE INCIDENCE PERCENTAGE.—The term "manufacturers base incidence percentage" is, with respect to each type of tobacco product, the percentage of young individuals determined to have identified a brand of such tobacco product of such manufacturer as the usual brand smoked or used in the first annual performance survey for 1999.

(3) YOUNG INDIVIDUALS.—The term "young individuals" means individuals who are over 11 years of age and under 18 years of age.

(4) CIGARETTE MANUFACTURERS.—The term "cigarette manufacturers" means manufacturers of cigarettes sold in the United States.

(5) NON-ATTAINMENT PERCENTAGE FOR CIGARETTES.—The term "non-attainment percentage for cigarettes" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of cigarettes is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of cigarettes is greater than the base incidence percentage, adding—

(i) the percentage by which the percent incidence of underage use of cigarettes in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(6) NON-ATTAINMENT PERCENTAGE FOR SMOKELESS TOBACCO PRODUCTS.—The term "non-attainment percentage for smokeless tobacco products" means the number of percentage points yielded—

(A) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is less than the base incidence percentage, by subtracting—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is less than the base incidence percentage, from

(ii) the required percentage reduction applicable in that year; and

(B) for a calendar year in which the percent incidence of underage use of smokeless tobacco products is greater than the base incidence percentage, by adding—

(i) the percentage by which the percent incidence of underage use of smokeless tobacco products in that year is greater than the base incidence percentage; and

(ii) the required percentage reduction applicable in that year.

(7) SMOKELESS TOBACCO PRODUCT MANUFACTURERS.—The term "smokeless tobacco product manufacturers" means manufacturers of smokeless tobacco products sold in the United States.

Subtitle B—State Retail Licensing and Enforcement Incentives

SEC. 231. STATE RETAIL LICENSING AND ENFORCEMENT BLOCK GRANTS.

(a) IN GENERAL.—The Secretary shall make State retail licensing and enforcement block grants in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $200,000,000 for each fiscal year to carry out the provisions of this section.

(b) REQUIREMENTS.—

(1) ESTABLISHMENT.—The Secretary shall provide a block grant, based on population, under this subtitle to each State that has in effect a law that—

(A) provides for the licensing of entities engaged in the sale or distribution of tobacco products directly to consumers;

(B) makes it illegal to sell or distribute tobacco products to individuals under 18 years of age; and

(C) meets the standards described in this section.

(2) STATE AGREEMENT REQUIRED.—In order to receive a block grant under this section, a State—

(A) shall enter into an agreement with the Secretary to assume responsibilities for the implementation and enforcement of a tobacco retailer licensing program;

(B) shall prohibit retailers from selling or otherwise distributing tobacco products to individuals under 18 years of age in accordance with the Youth Access Restrictions regulations promulgated by the Secretary (21 C.F.R. 897.14(a) and (b));

(C) shall make available to appropriate Federal agencies designated by the Secretary requested information concerning retail establishments involved in the sale or distribution of tobacco products to consumers; and

(D) shall establish to the satisfaction of the Secretary that it has a law or regulation that includes the following:

(i) LICENSURE; SOURCES; AND NOTICE.—A requirement for a State license for each retail establishment involved in the sale or distribution of tobacco products to consumers. A requirement that a retail establishment may purchase tobacco products only from Federally-licensed manufacturers, importers, or wholesalers. A program under which notice is provided to such establishments and their employees of all licensing requirements and responsibilities under State and Federal law relating to the retail distribution of tobacco products.

(ii) PENALTIES.—

(I) CRIMINAL.—Criminal penalties for the sale or distribution of tobacco products to a consumer without a license.

(II) CIVIL.—Civil penalties for the sale or distribution of tobacco products in violation of State law, including graduated fines and suspension or revocation of licenses for repeated violations.

(III) OTHER.—Other programs, including such measures as fines, suspension of driver's license privileges, or community service requirements, for underage youths who possess, purchase, or attempt to purchase tobacco products.

(iii) JUDICIAL REVIEW.—Judicial review procedures for an action of the State suspending, revoking, denying, or refusing to renew any license under its program.

(c) ENFORCEMENT.—

(1) UNDERTAKING.—Each State that receives a grant under this subtitle shall undertake to enforce compliance with its tobacco retailing licensing program in a manner that can reasonably be expected to reduce the sale and distribution of tobacco products to individuals under 18 years of age. If the Secretary determines that a State is not enforcing the law in accordance with such an undertaking, the Secretary may withhold a portion of any unobligated funds under this section otherwise payable to that State.

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—A State that receives a grant under this subtitle shall—

(A) conduct monthly random, unannounced inspections of sales or distribution outlets in the State to ensure compliance with a law prohibiting sales of tobacco products to individuals under 18 years of age;

(B) annually submit to the Secretary a report describing in detail—

(i) the activities carried out by the State to enforce underage access laws during the fiscal year;

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18 years;

(iii) how the inspections described in subparagraph (A) were conducted and the methods used to identify outlets, with appropriate protection for the confidentiality of information regarding the timing of inspections and other investigative techniques whose effectiveness depends on continued confidentiality; and

(iv) the identity of the single State agency designated by the Governor of the State to be responsible for the implementation of the requirements of this section.

(3) MINIMUM INSPECTION STANDARDS.—Inspections conducted by the State shall be conducted by the State in such a way as to ensure a scientifically sound estimate (with a 95 percent confidence interval that such estimates are accurate to within plus or minus 3 percentage points), using an accurate list of retail establishments throughout the State. Such inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. The sample must reflect the distribution of the population under the age of 18 years throughout the State and the distribution of the outlets throughout the State accessible to youth. Except as provided in this paragraph, any reports required by this paragraph shall be made public. As used in this paragraph, the term "outlet" refers to any location that sells at retail or otherwise distributes tobacco products to consumers, including to locations that sell such products over-the-counter.

(d) NONCOMPLIANCE.—

(1) INSPECTIONS.—The Secretary shall withhold from any State that fails to meet the

requirements of subsection (b) in any calendar year an amount equal to 5 percent of the amount otherwise payable under this subtitle to that State for the next fiscal year.

(2) COMPLIANCE RATE.—The Secretary shall withhold from any State that fails to demonstrate a compliance rate of—

(A) at least the annual compliance targets that were negotiated with the Secretary under section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) as such section was in effect before its repeal by this Act through the third fiscal year after the date of enactment of this Act;

(B) at least 80 percent in the fourth fiscal year after such date;

(C) at least 85 percent in the fifth and sixth fiscal years after such date; and

(D) at least 90 percent in every fiscal year beginning with the seventh fiscal year after such date,

an amount equal to one percentage point for each percentage point by which the State failed to meet the percentage set forth in this subsection for that year from the amount otherwise payable under this subtitle for that fiscal year.

(e) RELEASE AND DISBURSEMENT.—

(1) Upon notice from the Secretary that an amount payable under this section has been ordered withheld under subsection (d), a State may petition the Secretary for a release and disbursement of up to 75 percent of the amount withheld, and shall give timely written notice of such petition to the attorney general of that State and to all tobacco product manufacturers.

(2) The agency shall conduct a hearing on such a petition, in which the attorney general of the State may participate and be heard.

(3) The burden shall be on the State to prove, by a preponderance of the evidence, that the release and disbursement should be made. The Secretary's decision on whether to grant such a release, and the amount of any such disbursement, shall be based on whether—

(A) the State presents scientifically sound survey data showing that the State is making significant progress toward reducing the use of tobacco products by individuals who have not attained the age of 18 years;

(B) the State presents scientifically-based data showing that it has progressively decreased the availability of tobacco products to such individuals;

(C) the State has acted in good faith and in full compliance with this Act, and any rules or regulations promulgated under this Act;

(D) the State provides evidence that it plans to improve enforcement of these laws in the next fiscal year; and

(E) any other relevant evidence.

(4) A State is entitled to interest on any withheld amount released at the average United States 52-Week Treasury Bill rate for the period between the withholding of the amount and its release.

(5) Any State attorney general or tobacco product manufacturer aggrieved by a final decision on a petition filed under this subsection may seek judicial review of such decision within 30 days in the United States Court of Appeals for the District of Columbia Circuit. Unless otherwise specified in this Act, judicial review under this section shall be governed by sections 701 through 706 of title 5, United States Code.

(6) No stay or other injunctive relief enjoining a reduction in a State's allotment pending appeal or otherwise may be granted by the Secretary or any court.

(f) NON-PARTICIPATING STATES LICENSING REQUIREMENTS.—For retailers in States which have not established a licensing program under subsection (a), the Secretary shall promulgate regulations establishing Federal retail licensing for retailers engaged in tobacco sales to consumers in those States. The Secretary may enter into agreements with States for the enforcement of those regulations. A State that enters into such an agreement shall receive a grant under this section to reimburse it for costs incurred in carrying out that agreement.

(g) DEFINITION.—For the purposes of this section, the term "first applicable fiscal year" means the first fiscal year beginning after the fiscal year in which funding is made available to the States under this section.

SEC. 232. BLOCK GRANTS FOR COMPLIANCE BONUSES.

(a) IN GENERAL.—The Secretary shall make block grants to States determined to be eligible under subsection (b) in accordance with the provisions of this section. There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund $100,000,000 for each fiscal year to carry out the provisions of this section.

(b) ELIGIBLE STATES.—To be eligible to receive a grant under subsection (a), a State shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require; and

(2) with respect to the year involved, demonstrate to the satisfaction of the Secretary that fewer than 5 percent of all individuals under 18 years of age who attempt to purchase tobacco products in the State in such year are successful in such purchase.

(c) PAYOUT.—

(1) PAYMENT TO STATE.—If one or more States are eligible to receive a grant under this section for any fiscal year, the amount payable for that fiscal year shall be apportioned among such eligible States on the basis of population.

(2) YEAR IN WHICH NO STATE RECEIVES GRANT.—If in any fiscal year no State is eligible to receive a grant under this section, then the Secretary may use not more than 25 percent of the amount appropriated to carry out this section for that fiscal year to support efforts to improve State and local enforcement of laws regulating the use, sale, and distribution of tobacco products to individuals under the age of 18 years.

(3) AMOUNTS AVAILABLE WITHOUT FISCAL YEAR LIMITATION.—Any amount appropriated under this section remaining unexpended and unobligated at the end of a fiscal year shall remain available for obligation and expenditure in the following fiscal year.

SEC. 233. CONFORMING CHANGE.

Section 1926 of the Public Health Service Act (42 U.S.C. 300x—26) is hereby repealed.

Subtitle C—Tobacco Use Prevention and Cessation Initiatives

SEC. 261. TOBACCO USE PREVENTION AND CESSATION INITIATIVES.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following:

"PART D—TOBACCO USE PREVENTION AND CESSATION INITIATIVES

"SUBPART I—CESSATION AND COMMUNITY-BASED PREVENTION BLOCK GRANTS

"SEC. 1981. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

"(a) IN GENERAL.—From amounts contained in the Public Health Allocation Account under section 451(b)(2)(A) and (C) of the National Tobacco Policy and Youth Smoking Reduction Act for a fiscal year, there are authorized to be appropriated (under subsection (d) of such section) to carry out this subpart—

"(1) for cessation activities, the amounts appropriated under section 451(b)(2)(A); and

"(2) for prevention and education activities, the amounts appropriated under section 451(b)(2)(C).

"(b) NATIONAL ACTIVITIES.—

"(1) Not more than 10 percent of the amount made available for any fiscal year under subsection (a) shall be made available to the Secretary to carry out activities under section 1981B and 1981D(d).

"(2) Not more than 10 percent of the amount available for any fiscal year under subsection (a)(1) shall be available to the Secretary to carry out activities under section 1981D(d).

"SEC. 1981A. ALLOTMENTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—From the amount made available under section 1981 for any fiscal year the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this subpart as the 'Director'), shall allot to each State an amount based on a formula to be developed by the Secretary that is based on the tobacco prevention and cessation needs of each State including the needs of the State's minority populations.

"(2) MINIMUM AMOUNT.—In determining the amount of allotments under paragraph (1), the Secretary shall ensure that no State receives less than ½ of 1 percent of the amount available under section 1981(a) for the fiscal year involved.

"(b) REALLOTMENT.—To the extent that amounts made available under section 1981 for a fiscal year are not otherwise allotted to States because—

"(1) 1 or more States have not submitted an application or description of activities in accordance with section 1981D for the fiscal year;

"(2) 1 or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) the Secretary has determined that the State is not in compliance with this subpart, and therefore is subject to penalties under section 1981D(g);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year involved without regard to this subsection.

"(c) PAYMENTS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall utilize the funds made available under this section to make payments to States under allotments under this subpart as provided for under section 203 of the Intergovernmental Cooperation Act of 1968.

"(2) FEDERAL GRANTEES.—From amounts available under section 1981(b)(2), the Secretary may make grants, or supplement existing grants, to entities eligible for funds under the programs described in section 1981C(d)(1) and (10) to enable such entities to carry out smoking cessation activities under this subpart, except not less than 25 percent of this amount shall be used for the program described in 1981C(d)(6).

"(3) AVAILABILITY OF FUNDS.—Any amount paid to a State for a fiscal year under this subpart and remaining unobligated at the end of such year shall remain available to

such State for the next fiscal year for the purposes for which such payment was made.

"(d) REGULATIONS.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations to implement this subpart. This subpart shall take effect regardless of the date on which such regulations are promulgated.

"SEC. 1981B. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, without charge to a State receiving an allotment under section 1981A, provide to such State (or to any public or nonprofit private entity within the State) technical assistance and training with respect to the planning, development, operation, and evaluation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance or training directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICE IN LIEU OF GRANT FUNDS.—The Secretary, at the request of a State, may reduce the amount of payments to the State under section 1981A(c) by—

"(1) the fair market value of any supplies or equipment furnished by the Secretary to the State; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1981C. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"SEC. 1981C. PERMITTED USERS OF CESSATION BLOCK GRANTS AND OF COMMUNITY-BASED PREVENTION BLOCK GRANTS.

"(a) TOBACCO USE CESSATION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(1) may be used for the following:

"(1) Evidence-based cessation activities described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) evidence-based programs designed to assist individuals, especially young people and minorities who have been targeted by tobacco product manufacturers, to quit their use of tobacco products;

"(B) training in cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(C) programs to encourage health insurers and health plans to provide coverage for evidence-based tobacco use cessation interventions and therapies, except that the use of any funds under this clause to offset the cost of providing a smoking cessation benefit shall be on a temporary demonstration basis only;

"(D) culturally and linguistically appropriate programs targeted toward minority and low-income individuals, individuals residing in medically underserved areas, uninsured individuals, and pregnant women;

"(E) programs to encourage employer-based wellness programs to provide evidence-based tobacco use cessation intervention and therapies; and

"(F) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(b) STATE AND COMMUNITY ACTION ACTIVITIES.—Except as provided in subsections (d) and (e), amounts described in subsection (a)(2) may be used for the following:

"(1) Evidence-based activities for tobacco use prevention and control described in the plan of the State, submitted in accordance with section 1981D, including—

"(A) State and community initiatives;

"(B) community-based prevention programs, similar to programs currently funded by NIH;

"(C) programs focused on those populations within the community that are most at risk to use tobacco products or that have been targeted by tobacco advertising or marketing;

"(D) school programs to prevent and reduce tobacco use and addiction, including school programs focused in those regions of the State with high smoking rates and targeted at populations most at risk to start smoking;

"(E) culturally and linguistically appropriate initiatives targeted towards minority and low-income individuals, individuals residing in medically underserved areas, and women of child-bearing age;

"(F) the development and implementation of tobacco-related public health and health promotion campaigns and public policy initiatives;

"(G) assistance to local governmental entities within the State to conduct appropriate anti-tobacco activities.

"(H) strategies to ensure that the State's smoking prevention activities include minority, low-income, and other undeserved populations; and

"(I) programs that target populations whose smoking rate is disproportionately high in comparison to the smoking rate population-wide in the State.

"(2) Planning, administration, and educational activities related to the activities described in paragraph (1).

"(3) The monitoring and evaluation of activities carried out under paragraphs (1) and (2), and reporting and disseminating resulting information to health professionals and the public.

"(4) Targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(c) COORDINATION.—Tobacco use cessation and community-based prevention activities permitted under subsections (b) and (c) may be conducted in conjunction with recipients of other Federally—funded programs within the State, including—

"(1) the special supplemental food program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(2) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.);

"(3) the State Children's Health Insurance Program of the State under title XXI of the Social Security Act (42 U.S.C. 13397aa et seq.);

"(4) the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(5) an Indian Health Service Program;

"(6) the community, migrant, and homeless health centers program under section 330 of the Public Health Service Act (42 U.S.C. 254b);

"(7) state-initiated smoking cessation programs that include provisions for reimbursing individuals for medications or therapeutic techniques;

"(8) the substance abuse and mental health services block grant program, and the preventive health services block grant program, under title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.);

"(9) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(10) programs administered by the Department of Defense and the Department of Veterans Affairs.

"(d) LIMITATION.—A State may not use amounts paid to the State under section 1981A(c) to—

"(1) make cash payments except with appropriate documentation to intended recipients of tobacco use cessation services;

"(2) fund educational, recreational, or health activities not based on scientific evidence that the activity will prevent smoking or lead to success of cessation efforts

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition of the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity or a private entity consistent with subsection (b)(1)(C).

This subsection shall not apply to the support of targeted pilot programs that use innovative and experimental new methodologies and include an evaluation component.

"(e) ADMINISTRATION.—Not more than 5 percent of the allotment of a State for a fiscal year under this subpart may be used by the State to administer the funds paid to the State under section 1981A(c). The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1981D. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION.—The Secretary may make payments under section 1981A(c) to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application, in such form and by such date as the Secretary may require, for such payments;

"(2) the application contains a State plan prepared in a manner consistent with section 1905(b) and in accordance with tobacco-related guidelines promulgated by the Secretary;

"(3) the application contains a certification that is consistent with the certification required under section 1905(c); and

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this subpart (including assurances regarding compliance with the agreements described in subsection (c)).

"(b) STATE PLAN.—A State plan under subsection (a)(2) shall be developed in a manner consistent with the plan developed under section 1905(b) except that such plan—

"(1) with respect to activities described in section 1981C(b)—

"(A) shall provide for tobacco use cessation intervention and treatment consistent with the tobacco use cessation guidelines issued by the Agency for Health Care Policy and Research, or another evidence-based guideline approved by the Secretary, or treatments using drugs, human biological products, or medical devices approved by the Food and Drug Administration, or otherwise legally marketed under the Federal Food, Drug and Cosmetic Act for use as tobacco use cessation therapies or aids;

"(B) may, to encourage innovation and experimentation with new methodologies, provide for or may include a targeted pilot program with an evaluation component;

"(C) shall provide for training in tobacco use cessation intervention methods for health plans and health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

"(D) shall ensure access to tobacco use cessation programs for rural and underserved populations;

"(E) shall recognize that some individuals may require more than one attempt for successful cessation; and

"(F) shall be tailored to the needs of specific populations, including minority populations; and

"(2) with respect to State and community-based prevention activities described in section 1981C(c), shall specify the activities authorized under such section that the State intends to carry out.

"(c) CERTIFICATION.—The certification referred to in subsection (a)(3) shall be consistent with the certification required under section 1905(c), except that

"(1) the State shall agree to expend payments under section 1981A(c) only for the activities authorized in section 1981C;

"(2) paragraphs (9) and (10) of such section shall not apply; and

"(3) the State is encouraged to establish an advisory committee in accordance with section 1981E.

"(d) REPORTS, DATA, AND AUDITS.—The provisions of section 1906 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part, except that the data sets referred to in section 1905(a)(2) shall be developed for uniformly defining levels of youth and adult use of tobacco products, including uniform data for racial and ethnic groups, for use in the reports required under this subpart.

"(e) WITHHOLDING.—The provisions of 1907 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(f) NONDISCRIMINATION.—The provisions of 1908 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"(g) CRIMINAL PENALTIES.—The provisions of 1909 shall apply with respect to a State that receives payments under section 1981A(c) and be applied in a manner consistent with the manner in which such provisions are applied to a State under part A.

"SEC. 1981E. STATE ADVISORY COMMITTEE.

"(a) IN GENERAL.—For purposes of sections 1981D(c)(3), an advisory committee is in accordance with this section if such committee meets the conditions described in this subsection.

"(b) DUTIES.—The recommended duties of the committee are—

"(1) to hold public hearings on the State plans required under sections 1981D; and

"(2) to make recommendations under this subpart regarding the development and implementation of such plans, including recommendations on—

"(A) the conduct of assessments under the plans;

"(B) which of the activities authorized in section 1981C should be carried out in the State;

"(C) the allocation of payments made to the State under section 1981A(c);

"(D) the coordination of activities carried out under such plans with relevant programs of other entities; and

"(E) the collection and reporting of data in accordance with section 1981D.

"(c) COMPOSITION.—

"(1) IN GENERAL.—The recommended composition of the advisory committee is members of the general public, such officials of the health departments of political subdivisions of the State, public health professionals, teenagers, minorities, and such experts in tobacco product research as may be necessary to provide adequate representation of the general public and of such health departments, and that members of the committee shall be subject to the provisions of sections 201, 202, and 203 of title 18, United States Code.

"(2) REPRESENTATIVES.—With respect to compliance with paragraph (1), the membership of the advisory committee may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized under section 1981C.

"SUBPART II—TOBACCO-FREE COUNTER-ADVERTISING PROGRAMS

"SEC. 1982. FEDERAL-STATE COUNTER-ADVERTISING PROGRAMS.

"(a) NATIONAL CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall conduct a national campaign to reduce tobacco usage through media-based (such as counter-advertising campaigns) and nonmedia-based education, prevention and cessation campaigns designed to discourage the use of tobacco products by individuals, to encourage those who use such products to quit, and to educate the public about the hazards of exposure to environmental tobacco smoke.

"(2) REQUIREMENTS.—The national campaign under paragraph (1) shall—

"(A) target those populations that have been targeted by tobacco industry advertising using culturally and linguistically appropriate means;

"(B) include a research and evaluation component; and

"(C) be designed in a manner that permits the campaign to be modified for use at the State or local level.

"(b) ESTABLISHMENT OF AN ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary shall establish a board to be known as the 'National Tobacco Free Education Advisory Board' (referred to in this section as the 'Board') to evaluate and provide long range planning for the development and effective dissemination of public informational and educational campaigns and other activities that are part of the campaign under subsection (a).

"(2) COMPOSITION.—The Board shall be composed of—

"(A) 9 non-Federal members to be appointed by the President, after consultation and agreement with the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the Health or Representatives, of which—

"(i) at least 3 such members shall be individuals who are widely recognized by the general public for cultural, educational, behavioral science or medical achievement;

"(ii) at least 3 of whom shall be individuals who hold positions of leadership in major public health organizations, including minority public health organizations; and

"(iii) at least 3 of whom shall be individuals recognized as experts in the field of advertising and marketing, of which—

"(I) 1 member shall have specific expertise in advertising and marketing to children and teens; and

"(II) 1 member shall have expertise in marketing research and evaluation; and

"(B) the Surgeon General, the Director of the Centers for Disease Control and Prevention, or their designees, shall serve as an ex officio members of the Board.

"(3) TERMS AND VACANCIES.—The members of the Board shall serve for a term of 3 years. Such terms shall be staggered as determined appropriate at the time of appointment by the Secretary. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(4) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(5) AWARDS.—In carrying out subsection (a), the Secretary may—

"(A) enter into contracts with or award grants to eligible entities to develop messages and campaigns designed to prevent and reduce the use of tobacco products that are based on effective strategies to affect behavioral changes in children and other targeted populations, including minority populations;

"(B) enter into contracts with or award grants to eligible entities to carry out public informational and educational activities designed to reduce the use of tobacco products;

"(6) POWERS AND DUTIES.—The Board may—

"(A) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out the purposes of this section; and

"(B) secure directly from any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(c) ELIGIBILITY.—To be eligible to receive funding under this section an entity shall—

"(1) be a—

"(A) public entity or a State health department; or

"(B) private or nonprofit private entity that—

"(i)(I) is not affiliated with a tobacco product manufacturer or importer;

"(II) has a demonstrated record of working effectively to reduce tobacco product use; or

"(III) has expertise in conducting a multimedia communications campaign; and

"(ii) has expertise in developing strategies that affect behavioral changes in children and other targeted populations, including minority populations;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities to be conducted using amounts received under the grant or contract;

"(3) provide assurances that amounts received under this section will be used in accordance with subsection (c); and

"(4) meet any other requirements determined appropriate by the Secretary.

"(d) USE OF FUNDS.—An entity that receives funds under this section shall use amounts provided under the grant or contract to conduct multi-media and non-media public educational, informational, marketing and promotional campaigns that are designed to discourage and de-glamorize the use of tobacco products, encourage those using such products to quit, and educate the public about the hazards of exposure to environmental tobacco smoke. Such amounts may be used to design and implement such activities and shall be used to conduct research concerning the effectiveness of such programs.

"(e) NEEDS OF CERTAIN POPULATIONS.—In awarding grants and contracts under this section, the Secretary shall take into consideration the needs of particular populations, including minority populations, and use methods that are culturally and linguistically appropriate.

"(f) COORDINATION.—The Secretary shall ensure that programs and activities under this section are coordinated with programs and activities carried out under this title.

"(g) ALLOCATION OF FUNDS.—Not to exceed—

"(1) 25 percent of the amount made available under subsection (h) for each fiscal year shall be provided to States for State and local media-based and nonmedia-based education, prevention and cessation campaigns;

"(2) no more than 20 percent of the amount made available under subsection (h) for each fiscal year shall be used specifically for the development of new messages and campaigns;

"(3) the remainder shall be used specifically to place media messages and carry out other dissemination activities described in subsection (d); and

"(4) half of 1 percent for administrative costs and expenses.

"(h) TRIGGER.—No expenditures shall be made under this section during any fiscal year in which the annual amount appropriated for the Centers for Disease Control and Prevention is less than the amount so appropriated for the prior fiscal year.".

"PART E—REDUCING YOUTH SMOKING AND TOBACCO-RELATED DISEASES THROUGH RESEARCH

"SEC. 1991. FUNDING FROM TOBACCO SETTLEMENT TRUST FUND.

No expenditures shall be made under sections 451(b) or (c)—

"(1) for the National Institutes of Health during any fiscal year in which the annual amount appropriated for such Institutes is less than the amount so appropriated for the prior fiscal year;

"(2) for the Centers for Disease Control and Prevention during any fiscal year in which the annual amount appropriated for such Centers is less than the amount so appropriated for the prior fiscal year; or

"(3) for the Agency for Health Care Policy and Research during any fiscal year in which the annual amount appropriated for such Agency is less than the amount so appropriated for the prior fiscal year.

"SEC. 1991A. STUDY BY THE INSTITUTE OF MEDICINE.

"(a) CONTRACT.—Not later than 60 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine for the conduct of a study on the framework for a research agenda and research priorities to be used under this part.

"(b) CONSIDERATIONS.—

"(1) IN GENERAL.—In developing the framework for the research agenda and research priorities under subsection (a) the Institute of Medicine shall focus on increasing knowledge concerning the biological, social, behavioral, public health, and community factors involved in the prevention of tobacco use, reduction of tobacco use, and health consequences of tobacco use.

"(2) SPECIFIC CONSIDERATIONS.—In the study conducted under subsection (a), the Institute of Medicine shall specifically include research on—

"(A) public health and community research relating to tobacco use prevention methods, including public education, media, community strategies;

"(B) behavioral research relating to addiction, tobacco use, and patterns of smoking, including risk factors for tobacco use by children, women, and racial and ethnic minorities;

"(C) health services research relating to tobacco product prevention and cessation treatment methodologies;

"(D) surveillance and epidemiology research relating to tobacco;

"(E) biomedical, including clinical, research relating to prevention and treatment of tobacco-related diseases, including a focus on minorities, including racial and ethnic minorities;

"(F) the effects of tobacco products, ingredients of tobacco products, and tobacco smoke on the human body and methods of reducing any negative effects, including the development of non-addictive, reduced risk tobacco products;

"(G) differentials between brands of tobacco products with respect to health effects or addiction;

"(H) risks associated with environmental exposure to tobacco smoke, including a focus on children and infants;

"(I) effects of tobacco use by pregnant women; and

"(J) other matters determined appropriate by the Institute.

"(c) REPORT.—Not later than 10 months after the date on which the Secretary enters into the contract under subsection (a), the Institute of Medicine shall prepare and submit to the Secretary, the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives, a report that shall contain the findings and recommendations of the Institute for the purposes described in subsection (b).

"SEC. 1991B. RESEARCH COORDINATION.

"(a) IN GENERAL.—The Secretary shall foster coordination among Federal research agencies, public health agencies, academic bodies, and community groups that conduct or support tobacco-related biomedical, clinical, behavioral, health services, public health and community, and surveillance and epidemiology research activities.

"(b) REPORT.—The Secretary shall prepare and submit a report on a biennial basis to the Committee on Labor and Human Resources, and the Committee on Appropriations of the Senate, and the Committee on Commerce of the House of Representatives on the current and planned tobacco-related research activities of participating Federal agencies.

"SEC. 1991C. RESEARCH ACTIVITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

"(a) DUTIES.—The Director of the Centers for Disease Control and Prevention shall, from amounts provided under section 451(c), and after review of the study of the Institute of Medicine, carry out tobacco-related surveillance and epidemiologic studies and develop tobacco control and prevention strategies; and

"(b) YOUTH SURVEILLANCE SYSTEMS.—From amounts provided under section 451(b), the Director of the Centers for Disease Control and Prevention shall provide for the use of youth surveillance systems to monitor the use of all tobacco products by individuals under the age of 18, including brands-used to enable determinations to be made of company-specific youth market share.

"SEC. 1991D. RESEARCH ACTIVITIES OF THE NATIONAL INSTITUTES OF HEALTH.

"(a) FUNDING.—There are authorized to be appropriated, from amounts in the National Tobacco Settlement Trust Fund established by section 401 of the National Tobacco Policy and Youth Smoking Reduction Act.

"(b) EXPENDITURE OF FUNDS.—The Director of the National Institutes of Health shall provide funds to conduct or support epidemiological, behavioral, biomedical, and social science research, including research related to the prevention and treatment of tobacco addiction, and the prevention and treatment of diseases associated with tobacco use.

"(c) GUARANTEED MINIMUM.—Of the funds made available to the National Institutes of Health under this section, such sums as may be necessary, may be used to support epidemiological, behavioral, and social science research related to the prevention and treatment of tobacco addiction.

"(d) NATURE OF RESEARCH.—Funds made available under subsection (d) may be used to conduct or support research with respect to one or more of the following—

"(1) the epidemiology of tobacco use;

"(2) the etiology of tobacco use;

"(3) risk factors for tobacco use by children;

"(4) prevention of tobacco use by children, including school and community-based programs, and alternative activities;

"(5) the relationship between tobacco use, alcohol abuse and illicit drug abuse;

"(6) behavioral and pharmacological smoking cessation methods and technologies, including relapse prevention;

"(7) the toxicity of tobacco products and their ingredients;

"(8) the relative harmfulness of different tobacco products;

"(9) environmental exposure to tobacco smoke;

"(10) the impact of tobacco use by pregnant women on their fetuses;

"(11) the redesign of tobacco products to reduce risks to public health and safety; and

"(12) other appropriate epidemiological, behavioral, and social science research.

"(e) COORDINATION.—In carrying out tobacco-related research under this section, the Director of the National Institutes of Health shall ensure appropriate coordination

with the research of other agencies, and shall avoid duplicative efforts through all appropriate means.

"(h) ADMINISTRATION.—The director of the NIH Office of Behavioral and Social Sciences Research may—

"(1) identify tobacco-related research initiatives that should be conducted or supported by the research institutes, and develop such projects in cooperation with such institutes;

"(2) coordinate tobacco-related research that is conducted or supported by the National Institutes of Health;

"(3) annually recommend to Congress the allocation of anti-tobacco research funds among the national research institutes; and

"(4) establish a clearinghouse for information about tobacco-related research conducted by governmental and non-governmental bodies.

"(f) TRIGGER.—No expenditure shall be made under subsection (a) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for the prior fiscal year.

"(g) REPORT.—The Director of the NIH shall every 2 years prepare and submit to the Congress a report ———research activities, including funding levels, for research made available under subsection (c).

(b) MEDICAID COVERAGE OF OUTPATIENT SMOKING CESSATION AGENTS.—Paragraph (2) of section 1927(d) of the Public Health Service Act (42 U.S.C. 1396r-8(d)) is amended—

(1) by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and

(2) by striking "drugs." in subparagraph (F), as redesignated, and inserting "drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.".

"SEC. 1991E. RESEARCH ACTIVITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

"(a) IN GENERAL.—The Administrator of the Agency for Health Care Policy and Research shall carry out outcomes, effectiveness, cost-effectiveness, and other health services research related to effective interventions for the prevention and cessation of tobacco use and appropriate strategies for implementing those services, the outcomes and delivery of care for diseases related to tobacco use, and the development of quality measures for evaluating the provision of those services.

"(b) ANALYSES AND SPECIAL PROGRAMS.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research, shall support—

"(1) and conduct periodic analyses and evaluations of the best scientific information in the area of smoking and other tobacco product use cessation; and

"(2) the development and dissemination of special programs in cessation intervention for health plans and national health professional societies.".

TITLE III—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Subtitle A—Product Warnings, Labeling and Packaging

SEC. 301. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

"SEC. 4. LABELING.

"(a) LABEL REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

"WARNING: Cigarettes are addictive"

"WARNING: Tobacco smoke can harm your children"

"WARNING: Cigarettes cause fatal lung disease"

"WARNING: Cigarettes cause cancer"

"WARNING: Cigarettes cause strokes and heart disease"

"WARNING: Smoking during pregnancy can harm your baby"

"WARNING: Smoking can kill you"

"WARNING: Tobacco smoke causes fatal lung disease in non-smokers"

"WARNING: Quitting smoking now greatly reduces serious risks to your health"

"(2) PLACEMENT; TYPOGRAPHY; ETC.—

"(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word "WARNING" shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

"(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

"(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

"(b) ADVERTISING REQUIREMENTS.—

"(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

"(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word "WARNING" shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital "W" of the word "WARNING" in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

"(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

"(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

"(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

"(4) MARKETING REQUIREMENTS.—

"(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.".

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking "(a) ADDITIONAL STATEMENTS.—" IN SUBSECTION (A); AND

(2) by striking subsection (b).

SEC. 302. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

"(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 303. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

"SEC. 3. SMOKELESS TOBACCO WARNING.

"(a) GENERAL RULE.—

"(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

"WARNING: This product can cause mouth cancer"

"WARNING: This product can cause gum disease and tooth loss"

"WARNING: This product is not a safe alternative to cigarettes"

"WARNING: Smokeless tobacco is addictive"

"(2) Each label statement required by paragraph (1) shall be—

"(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

"(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

"(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

"(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

"(b) REQUIRED LABELS.—

"(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

"(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

"(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

"(B) the word "WARNING" shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

"(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

"(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

"(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

"(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

"(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

"(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.".

SEC. 304. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 303 of this title, is further amended by adding at the end the following:

"(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.".

SEC. 305. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

"(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

Subtitle B—Testing and Reporting of Tobacco Product Smoke Constituents

SEC. 311. REGULATION REQUIREMENT.

(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of this Act, the Secretary, through the Commissioner of the Food and Drug Administration, shall promulgate regulations under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that meet the requirements of subsection (b) of this section.

(b) CONTENTS OF RULES.—The rules promulgated under subsection (a) of this section shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon

monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The rule may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

(c) AUTHORITY.—The Food and Drug Administration shall have authority to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

TITLE IV—NATIONAL TOBACCO TRUST FUND

SEC. 401. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Trust Fund", consisting of such amounts as may be appropriated or credited to the trust fund.

(b) TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—There shall be credited to the trust fund the net revenues resulting from the following amounts:

(1) Amounts paid under section 402.

(2) Amounts equal to the fines or penalties paid under section 402, 403, or 405, including interest thereon.

(3) Amounts equal to penalties paid under section 202, including interest thereon.

(c) NET REVENUES.—For purposes of subsection (b), the term "net revenues" means the amount estimated by the Secretary of the Treasury based on the excess of—

(1) the amounts received in the Treasury under subsection (b), over

(2) the decrease in the taxes imposed by chapter 1 and chapter 52 of the Internal Revenue Code of 1986, and other offsets, resulting from the amounts received under subsection (b).

(d) EXPENDITURES FROM THE TRUST FUND.—Amounts in the Trust Fund shall be available in each fiscal year, as provided in appropriation Acts. The authority to allocate net revenues as provided in this title and to obligate any amounts so allocated is contingent upon actual receipt of net revenues.

(e) BUDGETARY TREATMENT.—The amount of net receipts in excess of that amount which is required to offset the direct spending in this Act under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall be available exclusively to offset the appropriations required to fund the authorizations of appropriations in this Act (including the amendments made by this Act), and the amount of such appropriations shall not be included in the estimates required under section 251 of that Act (2 U.S.C. 901).

(f) ADMINISTRATIVE PROVISIONS.—Section 9602 of the Internal Revenue Code of 1986 shall apply to the trust fund to the same extent as if it were established by subchapter A of chapter 98 of such Code, except that, for purposes of section 9602(b)(3), any interest or proceeds shall be covered into the Treasury as miscellaneous receipts.

SEC. 402. PAYMENTS BY INDUSTRY.

(a) INITIAL PAYMENT.—

(1) CERTAIN TOBACCO PRODUCT MANUFACTURERS.—The following participating tobacco product manufacturers, subject to the provisions of title XIV, shall deposit into the National Tobacco Trust Fund an aggregate payment of $10,000,000,000, apportioned as follows:

(A) Phillip Morris Incorporated—65.8 percent.

(B) Brown and Williamson Tobacco Corporation—17.3 percent.

(C) Lorillard Tobacco Company—7.1 percent.

(D) R.J. Reynolds Tobacco Company—6.6 percent.

(E) United States Tobacco Company—3.2 percent.

(2) NO CONTRIBUTION FROM OTHER TOBACCO PRODUCT MANUFACTURERS.—No other tobacco product manufacturer shall be required to contribute to the payment required by this subsection.

(3) PAYMENT DATE; INTEREST.—Each tobacco product manufacturer required to make a payment under paragraph (1) of this subsection shall make such payment within 30 days after the date of compliance with this Act and shall owe interest on such payment at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the date of enactment of this Act, for payments made after the required payment date.

(b) ANNUAL PAYMENTS.—Each calendar year beginning after the required payment date under subsection (a)(3) the tobacco product manufacturers shall make total payments into the Fund for each calendar year in the following applicable base amounts, subject to adjustment as provided in section 403:

(1) year 1—$14,400,000,000.

(2) year 2—$15,400,000,000.

(3) year 3—$17,700,000,000.

(4) year 4—$21,400,000,000.

(5) year 5—$23,600,000,000.

(6) year 6 and thereafter—the adjusted applicable base amount under section 403.

(c) PAYMENT SCHEDULE; RECONCILIATION.—

(1) ESTIMATED PAYMENTS.—Deposits toward the annual payment liability for each calendar year under subsection (d)(2) shall be made in 3 equal installments due on March 1st, on June 1st, and on August 1st of each year. Each installment shall be equal to one-third of the estimated annual payment liability for that calendar year. Deposits of installments paid after the due date shall accrue interest at the prime rate plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date.

(2) RECONCILIATION.—If the liability for a calendar year under subsection (d)(2) exceeds the deposits made during that calendar year, the manufacturer shall pay the unpaid liability on March 1st of the succeeding calendar year, along with the first deposit for that succeeding year. If the deposits during a calendar year exceed the liability for the calendar year under subsection (d)(2), the manufacturer shall subtract the amount of the excess deposits from its deposit on March 1st of the succeeding calendar year.

(d) APPORTIONMENT OF ANNUAL PAYMENT.—

(1) IN GENERAL.—Each tobacco product manufacturer is liable for its share of the applicable base amount payment due each year under subsection (b). The annual payment is the obligation and responsibility of only those tobacco product manufacturers and their affiliates that directly sell tobacco products in the domestic market to wholesalers, retailers, or consumers, their successors and assigns, and any subsequent fraudulent transferee (but only to the extent of the interest or obligation fraudulently transferred).

(2) DETERMINATION OF AMOUNT OF PAYMENT DUE.—Each tobacco product manufacturer is liable for its share of each installment in proportion to its share of tobacco products sold in the domestic market for the calendar year. One month after the end of the calendar year, the Secretary shall make a final determination of each tobacco product manufacturer's applicable base amount payment obligation.

(3) CALCULATION OF TOBACCO PRODUCT MANUFACTURER'S SHARE OF ANNUAL PAYMENT.—The share of the annual payment apportioned to a tobacco product manufacturer shall be equal to that manufacturer's share of adjusted units, taking into account the manufacturer's total production of such units sold in the domestic market. A tobacco product manufacturer's share of adjusted units shall be determined as follows:

(A) UNITS.—A tobacco product manufacturer's number of units shall be determined by counting each—

(i) pack of 20 cigarettes as 1 adjusted unit;

(ii) 1.2 ounces of moist snuff as 0.75 adjusted unit; and

(iii) 3 ounces of other smokeless tobacco product as 0.35 adjusted units.

(B) DETERMINATION OF ADJUSTED UNITS.—Except as provided in subparagraph (C), a smokeless tobacco product manufacturer's number of adjusted units shall be determined under the following table:

For units:	Each unit shall be treated as:
Not exceeding 150 million	70% of a unit
Exceeding 150 million	100% of a unit

(C) ADJUSTED UNITS DETERMINED ON TOTAL DOMESTIC PRODUCTION.—For purposes of determining a manufacturer's number of adjusted units under subparagraph (B), a manufacturer's total production of units, whether intended for domestic consumption or export, shall be taken into account.

(D) SPECIAL RULE FOR LARGE MANUFACTURERS.—If a tobacco product manufacturer has more than 200 million units under subparagraph (A), then that manufacturer's number of adjusted units shall be equal to the total number of units, and not determined under subparagraph (B).

(E) SMOKELESS EQUIVALENCY STUDY.—Not later than January 1, 2003, the Secretary shall submit to the Congress a report detailing the extent to which youths are substituting smokeless tobacco products for cigarettes. If the Secretary determines that significant substitution is occurring, the Secretary shall include in the report recommendations to address substitution, including consideration of modification of the provisions of subparagraph (A).

(e) COMPUTATIONS.—The determinations required by subsection (d) shall be made and certified by the Secretary of Treasury. The parties shall promptly provide the Treasury Department with information sufficient for it to make such determinations.

(f) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) EXEMPTION .—A manufacturer described in paragraph (3) is exempt from the payments required by subsection (b).

(2) LIMITATION.—Paragraph (1) applies only to assessments on cigarettes to the extent that those cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed to consumers in any calendar year.

(3) TOBACCO PRODUCT MANUFACTURERS TO WHICH SUBSECTION APPLIES.—A tobacco product manufacturer is described in this paragraph if it—

(A) resolved tobacco-related civil actions with more than 25 States before January 1, 1998, through written settlement agreements signed by the attorneys general (or the equivalent chief legal officer if there is no office of attorney general) of those States; and

(B) provides to all other States, not later than December 31, 1998, the opportunity to enter into written settlement agreements that—

(i) are substantially similar to the agreements entered into with those 25 States; and

(ii) provide the other States with annual payment terms that are equivalent to the most favorable annual payment terms of its written settlement agreements with those 25 States.

SEC. 403. ADJUSTMENTS.

The applicable base amount under section 402(b) for a given calendar year shall be adjusted as follows in determining the annual payment for that year:

(1) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—Beginning with the sixth calendar year after the date of enactment of this Act, the adjusted applicable base amount under section 402(b)(6) is the amount of the annual payment made for the preceding year increased by the greater of 3 percent or the annual increase in the CPI, adjusted (for calendar year 2002 and later years) by the volume adjustment under paragraph (2).

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(2) VOLUME ADJUSTMENT.—Beginning with calendar year 2002, the applicable base amount (as adjusted for inflation under paragraph (1)) shall be adjusted for changes in volume of domestic sales by multiplying the applicable base amount by the ratio of the actual volume for the calendar year to the base volume. For purposes of this paragraph, the term "base volume" means 80 percent of the number of units of taxable domestic removals and taxed imports of cigarettes in calendar year 1997, as reported to the Secretary of the Treasury. For purposes of this subsection, the term "actual volume" means the number of adjusted unites as defined in section 402(d)(3)(A).

SEC. 404. PAYMENTS TO BE PASSED THROUGH TO CONSUMERS.

Each tobacco product manufacturer shall use its best efforts to adjust the price at which it sells each unit of tobacco products in the domestic market or to an importer for resale in the domestic market by an amount sufficient to pass through to each purchaser on a per-unit basis an equal share of the annual payments to be made by such tobacco product manufacturer under this Act for the year in which the sale occurs.

SEC. 405. TAX TREATMENT OF PAYMENTS.

All payments made under section 402 are ordinary and necessary business expenses for purposes of chapter 1 of the Internal Revenue Code of 1986 for the year in which such payments are made, and no part thereof is either in settlement of an actual or potential liability for a fine or penalty (civil or criminal) or the cost of a tangible or intangible asset or other future benefit.

SEC. 406. ENFORCEMENT FOR NONPAYMENT.

(a) PENALTY.—Any tobacco product manufacturer that fails to make any payment required under section 402 or 404 within 60 days after the date on which such fee is due is liable for a civil penalty computed on the unpaid balance at a rate of prime plus 10 percent per annum, as published in the Wall Street Journal on the latest publication date on or before the payment date, during the period the payment remains unmade.

(b) NONCOMPLIANCE PERIOD.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to make a payment required under section 402 or 404, the period—

(1) beginning on the due date for such payment; and

(2) ending on the date on which such payment is paid in full.

(c) LIMITATIONS.—

(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure to make a payment under section 402 during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(2) CORRECTIONS.—No penalty shall be imposed under subsection (a) on any failure to make a payment under section 402 if—

(A) such failure was due to reasonable cause and not to willful neglect; and

(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew or, exercising reasonable diligence, should have known, that such failure existed.

(3) WAIVER.—In the case of any failure to make a payment under section 402 that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed under subsection (a) to the extent that the Secretary determines that the payment of such penalty would be excessive relative to the failure involved.

Subtitle B—General Spending Provisions

SEC. 451. ALLOCATION ACCOUNTS.

(a) STATE LITIGATION SETTLEMENT ACCOUNT.—

(1) IN GENERAL.—There is established within the Trust Fund a separate account, to be known as the State Litigation Settlement Account. Of the net revenues credited to the Trust Fund under section 401(b)(1) for each fiscal year, 40 percent of the amounts designated for allocation under the settlement payments shall be allocated to this account. Such amounts shall be reduced by the additional estimated Federal expenditures that will be incurred as a result of State expenditures under section 452, which amounts shall be transferred to the miscellaneous receipts of the Treasury. If, after 10 years, the estimated 25-year total amount projected to received in this account will be different than amount than $196,500,000,000, then beginning with the eleventh year the 40 percent share will be adjusted as necessary, to a percentage not in excees of 50 percent and not less than 30 percent, to achieve that 25-year total amount.

(2) APPROPRIATION.—Amounts so calculated are hereby appropriated and available until expended and shall be available to States for grants authorized under this Act.

(3) DISTRIBUTION FORMULA.—The Secretary of the Treasury shall consult with the National Governors Association, the National Association of Attorneys General, and the National Conference of State Legislators on a formula for the distribution of amounts in the State Litigation Settlement Account and report to the Congress within 90 days after the date of enactment of this Act with recommendations for implementing a distribution formula.

(4) USE OF FUNDS.—A State may use amounts received under this subsection as the State determines appropriate, consistent with the other provisions of this Act.

(5) FUNDS NOT AVAILABLE AS MEDICAID REIMBURSEMENT.—Funds in the account shall not be available to the Secretary as reimbursement of Medicaid expenditures or considered as Medicaid overpayments for purposes of recoupment.

(b) PUBLIC HEALTH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Public Health Account. Twenty-two percent of the net revenues credited to the trust fund under section 401(b)(1) and all the net revenues credited to the trust fund under section 401(b)(3) shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Public Health Account shall be available to the extent and only in the amounts provided in advance in appropriations Acts, to remain available until expended, only for the purposes of:

(A) CESSATION AND OTHER TREATMENTS.—Of the total amounts allocated to this account, not less than 25 percent, but not more than 35 percent are to be used to carry out smoking cessation activities under part D of title XIX of the Public Health Service Act, as added by title II of this Act.

(B) INDIAN HEALTH SERVICE.—Of the total amounts allocated to this account, not less than 3 percent, but not more than 7 percent are to be used to carry out activities under section 453.

(C) EDUCATION AND PREVENTION.—Of the total amounts allocated to this account, not less than 50 percent, but not more than 65 percent are to be used to carry out—

(i) counter-advertising activities under section 1982 of the Public Health Service Act as amended by this Act;

(ii) smoking prevention activities under section 223;

(iii) surveys under section 1991C of the Public Health Service Act, as added by this Act (but, in no fiscal year may the amounts used to carry out such surveys be less than 10 percent of the amounts available under this subsection); and

(iv) international activities under section 1132.

(D) ENFORCEMENT.—Of the total amounts allocated to this account, not less than 17.5 percent nor more than 22.5 percent are to be used to carry out the following:

(i) Food and Drug Administration activities.

(I) The Food and Drug Administration shall receive not less than 15 percent of the funds provided in subparagraph (D) in the first fiscal year beginning after the date of enactment of this Act, 35 percent of such funds in the second year beginning after the date of enactment, and 50 percent of such funds for each fiscal year beginning after the date of enactment, as reimbursements for the costs incurred by the Food and Drug Administration in implementing and enforcing requirements relating to tobacco products.

(II) No expenditures shall be made under subparagraph (D) during any fiscal year in which the annual amount appropriated for the Food and Drug Administration is less than the amount so appropriated for the prior fiscal year.

(ii) State retail licensing activities under section 251.

(iii) Anti-Smuggling activities under section 1141.

(c) HEALTH AND HEALTH-RELATED RESEARCH ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Health and Health-Related Research Account. Of the net revenues credited

to the trust fund under section 401(b)(1), 22 percent shall be allocated to this account.

(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts in the Health and Health-Related Research Account shall be available to the extent and in the amounts provided in advance in appropriations acts, to remain available until expended, only for the following purposes:

(A) $750,000 shall be made vailable in fiscal year 1999 for the study to be conducted under section 1991 of the Public Health Service Act.

(B) National Institutes of Health Research under section 1991D of the Public Health Service Act, as added by this Act. Of the total amounts allocated to this account, not less than 75 percent, but not more than 87 percent shall be used for this purpose.

(C) Centers for Disease Control under section 1991C of the Public Health Service Act, as added by this Act, and Agency for Health Care Policy and Research under section 1991E of the Public Health Service Act, as added by this Act. authorized under sections 2803 of that Act, as so added. Of the total amounts allocated to this account, not less than 12 percent, but not more than 18 percent shall be used for this purpose.

(D) National Science Foundation Research under section 454. Of the total amounts allocated to this account, not less than 1 percent, but not more than 1 percent shall be used for this purpose.

(E) Cancer Clinical Trials under section 455. Of the total amounts allocated to this account, $750,000,000 shall be used for the first 3 fiscal years for this purpose.

(d) FARMERS ASSISTANCE ALLOCATION ACCOUNT.—

(1) IN GENERAL.— There is established within the trust fund a separate account, to be known as the Farmers Assistance Account. Of the net revenues credited to the trust fund under section 401(b)(1) in each fiscal year—

(A) 16 percent shall be allocated to this account for the first 10 years after the date of enactment of this Act; and

(B) 4 percent shall be allocated to this account for each subsequent year until the account has received a total of $28,500,000,000.

(2) APPROPRIATION.—Amounts allocated to this account are hereby appropriated and shall be available until expended for the purposes of section 1012.

(e) MEDICARE PRESERVATION ACCOUNT.—There is established within the trust fund a separate account, to be known as the Medicare Preservation Account. If, in any year, the net amounts credited to the trust fund for payments under section 402(b) are greater than the net revenues originally estimated under section 401(b), the amount of any such excess shall be credited to the Medicare Preservation Account. Beginning in the eleventh year beginning after the date of enactment of this Act, 12 percent of the net revenues credited to the trust fund under seciton 401(b)(1) shall be allocated to this account. Funds credited to this account shall be transferred to the Medicare Hospital Insurance Trust Fund.

SEC. 452. GRANTS TO STATES.

(a) AMOUNTS.—From the amount made available under section 402(a) for each fiscal year, each State shall receive a grant on a quarterly basis according to a formula.

(b) USE OF FUNDS.—

(1) UNRESTRICTED FUNDS.—A State may use funds, not to exceed 50 percent of the amount received under this section in a fiscal year, for any activities determined appropriate by the State.

(2) RESTRICTED FUNDS.—A State shall use not less than 50 percent of the amount received under this section in a fiscal year to carry out additional activities or provide additional services under—

(A) the State program under the maternal and child health services block grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(B) funding for child care under section 418 of the Social Security Act, notwithstanding subsection (b)(2) of that section;

(C) federally funded child welfare and abuse programs under title IV–B of the Social Security Act;

(D) programs administered within the State under the authority of the Substance Abuse and Mental Health Services Administration under title XIX, part B of the Public Health Service Act;

(E) Safe and Drug-Free Schools Program under title IV, part A, of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7111 et seq.);

(F) the Department of Education's Dwight D. Eisenhower Professional Development program under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.); and

(G) The State Children's Health Insurance Program authorized under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), provided that the amount expended on this program does not exceed 6 percent of the total amount of restricted funds available to the State each fiscal year.

(c) NO SUBSTITUTION OF SPENDING.—Amounts referred to in subsection (b)(2) shall be used to supplement and not supplant other Federal, State, or local funds provided for any of the programs described in subparagraphs (A) through (G) of subsection (b)(2). Restricted funds, except as provided for in subsection (b)(2)(G), shall not be used as State matching funds. Amounts provided to the State under any of the provisions of law referred to in such subparagraph shall not be reduced solely as a result of the availability of funds under this section.

(d) FEDERAL-STATE MATCH RATES.—Current (1998) matching requirements apply to each program listed under subsection (b)(2), except for the program described under subsection (b)(2)(B). For the program described under subsection (b)(2)(B), after an individual State has expended resources sufficient to receive its full Federal amount under section 418(a)(2)(B) of the Social Security Act (subject to the matching requirements in section 418(a)(2)(C) of such Act), the Federal share of expenditures shall be 80 percent.

(e) MAINTENANCE OF EFFORT.—To receive funds under this subsection, States must demonstrate a maintenance of effort. This maintenance of effort is defined as the sum of—

(1) an amount equal to 95 percent of Federal fiscal year 1997 State spending on the programs under subsections (b)(2)(B), (c), and (d); and

(2) an amount equal to the product of the amount described in paragraph (1) and—

(A) for fiscal year 1999, the lower of—

(i) general inflation as measured by the consumer price index for the previous year; or

(ii) the annual growth in the Federal appropriation for the program in the previous fiscal year; and

(B) for subsequent fiscal years, the lower of—

(i) the cumulative general inflation as measured by the consumer price index for the period between 1997 and the previous year; or

(ii) the cumulative growth in the Federal appropriation for the program for the period between fiscal year 1997 and the previous fiscal year.

The 95-percent maintenance-of-effort requirement in paragraph (1), and the adjustments in paragraph (2), apply to each program identified in paragraph (1) on an individual basis.

(f) OPTIONS FOR CHILDREN'S HEALTH OUTREACH.—In addition to the options for the use of grants described in this section, the following are new options to be added to States' choices for conducting children's health outreach:

(1) EXPANSION OF PRESUMPTIVE ELIGIBILITY OPTION FOR CHILDREN.—

(A) IN GENERAL.—Section 1920A(b)(3)(A)(I) of the Social Security Act (42 U.S.C. 1396r-1a(b)(3)(A)(I)) is amended—

(i) by striking "described in subsection (a) or (II) is authorized" and inserting "described in subsection (a), (II) is authorized"; and

(ii) by inserting before the semicolon ", eligibility for benefits under part A of title IV, eligibility of a child to receive benefits under the State plan under this title or title XXI, (III) is a staff member of a public school, child care resource and referral center, or agency administering a plan under part D of title IV, or (IV) is so designated by the State".

(B) TECHNICAL AMENDMENTS.—Section 1920A of that Act (42 U.S.C. 1396r-1a) is amended—

(i) in subsection (b)(3)(A)(ii), by striking "paragraph (1)(A)" and inserting "paragraph (2)(A)"; and

(ii) in subsection (c)(2), in the matter preceding subparagraph (A), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(2)(A)".

(2) REMOVAL OF REQUIREMENT THAT CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS BE REDUCED BY COSTS RELATED TO PRESUMPTIVE ELIGIBILITY DETERMINATIONS.—

(A) IN GENERAL.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended by striking "the sum of—" and all that follows through the paragraph designation "(2)" and merging all that remains of subsection (d) into a single sentence.

(B) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have taken effect on August 5, 1997.

(3) INCREASED FUNDING FOR ADMINISTRATIVE COSTS RELATED TO OUTREACH AND ELIGIBILITY DETERMINATIONS FOR CHILDREN.—Section 1931(h) of the Social Security Act (42 U.S.C. 1396u-1(h)) is amended—

(A) by striking the subsection caption and inserting "(h) INCREASED FEDERAL MATCHING RATE FOR ADMINISTRATIVE COSTS RELATED TO OUTREACH AND ELIGIBILITY DETERMINATIONS FOR CHILDREN.—";

(B) in paragraph (2), by striking "eligibility determinations" and all that follows and inserting "determinations of the eligibility of children for benefits under the State plan under this title or title XXI, outreach to children likely to be eligible for such benefits, and such other outreach- and eligibility-related activities as the Secretary may approve.";

(C) in paragraph (3), by striking "and ending with fiscal year 2000 shall not exceed $500,000,000" and inserting "shall not exceed $525,000,000"; and

(D) by striking paragraph (4).

(g) PERIODIC REASSESSMENT OF SPENDING OPTIONS.—Spending options under subsection (b)(2) will be reassessed jointly by the States and Federal government every 5 years and be reported to the Secretary.

SEC. 453. INDIAN HEALTH SERVICE.

Amounts available under section 451(b)(2)(B) shall be provided to the Indian Health Service to be used for anti-tobacco-related consumption and cessation activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance and improvement;

(2) provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement; and

(4) other programs and service provided through the Indian Health Service or through tribal contracts, compacts, grants, or cooperative agreements with the Indian Health Service and which are deemed appropriate to raising the health status of Indians.

SEC. 454. RESEARCH AT THE NATIONAL SCIENCE FOUNDATION.

Amounts available under section 451(c)(2)(C) shall be made available for necessary expenses in carry out the National Science Foundation Act of 1950 (U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881).

SEC. 455. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) ESTABLISHMENT.—The Secretary shall establish a 3-year demonstration project which provides for payment under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the Medicare program under such title as part of the individual's participation in an approved clinical trial program; and

(2) which are not otherwise eligible for payment under such title for individuals who are entitled to benefits under such title.

(b) APPLICATION.—The beneficiary cost sharing provisions under the Medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual in a demonstration project conducted under this section.

(c) APPROVED CLINICAL TRIAL PROGRAM.—

(1) IN GENERAL.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(A) the National Institutes of Health;

(B) a National Institutes of Health cooperative group or a National Institutes of Health center; and

(C) the National Cancer Institute,

with respect to programs that oversee and coordinate extramural clinical cancer research, trials sponsored by such Institute and conducted at designated cancer centers, clinical trials, and Institute grants that support clinical investigators.

(2) MODIFICATIONS IN APPROVED TRIALS.—Beginning 1 year after the date of enactment of this Act, the Secretary, in consultation with the Cancer Policy Board of the Institute of Medicine, may modify or add to the requirements of paragraph (1) with respect to an approved clinical trial program.

(d) ROUTINE PATIENT CARE COSTS.—

(1) IN GENERAL.—For purposes of this section, the term "routine patient care costs" include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the Medicare program if such items and services were not provided in connection with an approved clinical trial program; and

(B) are furnished according to the design of an approved clinical trial program.

(2) EXCLUSION.—For purposes of this section, the term "routine patient care costs" does not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

(B) any item or service supplied without charge by the sponsor of the approved clinical trial program.

(e) STUDY.—The Secretary shall study the impact on the Medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

(f) REPORT TO CONGRESS.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a detailed description of the results of the study conducted under subsection (e) including recommendations regarding the extension and expansion of the demonstration project conducted under this section.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

SEC. 501. DEFINITIONS.

In this title:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of the Occupational Safety and Health Administration of the Department of Labor.

(2) PUBLIC FACILITY.—

(A) IN GENERAL.—The term "public facility" means any building used for purposes that affect interstate or foreign commerce that is regularly entered by 10 or more individuals at least 1 day per week including any building owned by or leased to an agency, independent establishment, department, or the executive, legislative, or judicial branch of the United States Government.

(B) EXCLUSIONS.—The term "public facility" does not include a building or portion thereof which is used for residential purposes or as a restaurant (other than a fast food restaurant), bar, private club, hotel guest room or common area, casino, bingo parlor, tobacconist's shop, or prison.

(C) FAST FOOD RESTAURANT DEFINED.—The term "fast food restaurant" means any restaurant or chain of restaurants that primarily distributes food through a customer pick-up (either at a counter or drive-through window). The Assistant Secretary may promulgate regulations to clarify this subparagraph to ensure that the intended inclusion of establishments catering to individuals under 18 years of age is achieved.

(3) RESPONSIBLE ENTITY.—The term "responsible entity" means, with respect to any public facility, the owner of such facility except that, in the case of any such facility or portion thereof which is leased, such term means the lessee if the lessee is actively engaged in supervising day-to-day activity in the leased space.

SEC. 502. SMOKE-FREE ENVIRONMENT POLICY.

(a) POLICY REQUIRED.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

(b) ELEMENTS OF POLICY.—

(1) IN GENERAL.—The responsible entity for a public facility shall—

(A) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

(B) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

(2) EXCEPTION.—The responsible entity for a public facility may provide an exception to the prohibition specified in paragraph (1) for 1 or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

(c) SPECIALLY DESIGNATED SMOKING AREAS.—A specially designated smoking area meets the requirements of this subsection if—

(1) the area is ventilated in accordance with specifications promulgated by the Assistant Secretary that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;

(2) the area is maintained at negative pressure, as compared to adjoining nonsmoking areas, as determined under regulations promulgated by the Assistant Secretary;

(3) nonsmoking individuals do not have to enter the area for any purpose while smoking is occurring in such area; and

(4) cleaning and maintenance work are conducted in such area only when no smoking is occurring in the area.

SEC. 503. CITIZEN ACTIONS.

(a) IN GENERAL.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Assistant Secretary.

(b) VENUE.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

(c) NOTICE.—An aggrieved person shall give any alleged violator notice at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

(d) COSTS.—The court, in issuing any final order in any action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff, whenever the court determines such award is appropriate.

(e) PENALTIES.—The court, in any action under this section to apply civil penalties, shall have discretion to order that such civil penalties be used for projects which further the policies of this title. The court shall obtain the view of the Assistant Secretary in exercising such discretion and selecting any such projects.

(f) APPLICATION WITH OSHA.—Nothing in this section affects enforcement of the Occupational Safety and Health Act of 1970.

SEC. 504. PREEMPTION.

Nothing in this title shall preempt or otherwise affect any other Federal, State, or local law which provides greater protection from health hazards from environmental tobacco smoke.

SEC. 505. REGULATIONS.

The Assistant Secretary is authorized to promulgate such regulations, after consulting with the Administrator of the Environmental Protection Agency, as the Assistant Secretary deems necessary to carry out this title.

SEC. 506. EFFECTIVE DATE.

Except as provided in section 507, the provisions of this title shall take effect on the first day of January next following the next regularly scheduled meeting of the State legislature occurring after the date of enactment of this Act at which, under the procedural rules of that legislature, a measure under section 507 may be considered.

SEC. 507. STATE CHOICE.

Any State or local government may opt out of this title by promulgating a State or local law, subject to certification by the Assistant Secretary that the law is as or more protective of the public's health as this title, based on the best available science. Any State or local government may opt to enforce this title itself, subject to certification by the Assistant Secretary that the enforcement mechanism will effectively protect the public health.

TITLE VI—APPLICATION TO INDIAN TRIBES

SEC. 601. SHORT TITLE.

This title may be cited as the "Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998".

SEC. 602. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries.

(b) PURPOSE.—It is the purpose of this title to—

(1) provide for the implementation of this Act with respect to the regulation of tobacco products, and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands; and

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands.

SEC. 603. APPLICATION OF TITLE TO INDIAN LANDS AND TO NATIVE AMERICANS.

(a) IN GENERAL.—The provisions of this Act shall apply to the manufacture, distribution, and sale of tobacco or tobacco products on Indian lands, including such activities of an Indian tribe or member of such tribe.

(b) TRADITIONAL USE EXCEPTION.—

(1) IN GENERAL.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act shall be construed to permit an infringement upon upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco product for such purposes, or to infringe upon the ability of minors to participate and use tobacco products for such religious, ceremonial, or traditional purposes.

(2) APPLICATION OF PROVISIONS.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general manufacture, distribution, sale or use of tobacco or tobacco products in a manner that is not in compliance with this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)

(c) LIMITATION.—Nothing in this Act shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(d) APPLICATION ON INDIAN LANDS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to implement this section as necessary to apply this Act and the Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) with respect to tobacco products manufactured, distributed, or sold on Indian lands.

(2) SCOPE.—This Act and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) shall apply to the manufacture, distribution and sale of tobacco products on Indian lands, including such activities by Indian tribes and members of such tribes.

(3) TRIBAL TOBACCO RETAILER LICENSING PROGRAM.—

(A) IN GENERAL.—The requirements of this Act with respect to the licensing of tobacco retailers shall apply to all retailers that sell tobacco or tobacco products on Indian lands, including Indian tribes, and members thereof.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—An Indian tribe may implement and enforce a tobacco retailer licensing and enforcement program on its Indian lands consistent with the provisions of section 231 if the tribe is eligible under subparagraph (D). For purposes of this clause, section 231 shall be applied to an Indian tribe by substituting "Indian tribe" for "State" each place it appears, and an Indian tribe shall not be ineligible for grants under that section if the Secretary applies that section to the tribe by modifying it to address tribal population, land base, and jurisdictional factors.

(ii) COOPERATION.—An Indian tribe and State with tobacco retailer licensing programs within adjacent jurisdictions should consult and confer to ensure effective implementation of their respective programs.

(C) ENFORCEMENT.—The Secretary may vest the responsibility for implementation and enforcement of a tobacco retailer licensing program in—

(i) the Indian tribe involved;

(ii) the State within which the lands of the Indian tribe are located pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe; or

(iii) the Secretary pursuant to subparagraph (F).

(D) ELIGIBILITY.—To be eligible to implement and enforce a tobacco retailer licensing program under section 231, the Secretary, in consultation with the Secretary of Interior, must find that—

(i) the Indian tribe has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(ii) the functions to be exercised relate to activities conducted on its Indian lands; and

(iii) the Indian tribe is reasonably expected to be capable of carrying out the functions required by the Secretary.

(E) DETERMINATIONS.—Not later than 90 days after the date on which an Indian tribe submits an application for authority under subparagraph (D), the Secretary shall make a determination concerning the eligibility of such tribe for such authority. Each tribe found eligible under subparagraph (D) shall be eligible to enter into agreements for block grants under section 231, to conduct a licensing and enforcement program pursuant to section 231, and for bonuses under section 232.

(F) IMPLEMENTATION BY THE SECRETARY.—If the Secretary determines that the Indian tribe is not willing or not qualified to administer a retail licensing and enforcement program, the Secretary, in consultation with the Secretary of Interior, shall promulgate regulations for a program for such tribes in the same manner as for States which have not established a tobacco retailer licensing program under section 231(f).

(G) DEFICIENT APPLICATIONS; OPPORTUNITY TO CURE.—

(i) If the Secretary determines under subparagraph (F) that a Indian tribe is not eligible to establish a tobacco retailer licensing program, the Secretary shall—

(I) submit to such tribe, in writing, a statement of the reasons for such determination of ineligibility; and

(II) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

(ii) After an opportunity to review and cure such deficiencies, the tribe may reapply to the Secretary for assistance under this subsection.

(H) SECRETARIAL REVIEW.—The Secretary may periodically review the tribal tobacco retailer licensing program of a tribe approved pursuant to subparagraph (E), including the effectiveness of the program, the tribe's enforcement thereof, and the compatibility of the tribe's program with the program of the State in which the tribe is located. The program shall be subject to all applicable requirements of section 231.

(e) ELIGIBILITY FOR PUBLIC HEATH FUNDS.—

(1) ELIGIBILITY FOR GRANTS.—

(A) For each fiscal year the Secretary may award grants to Indian tribes from the Federal Account or other federal funds, except a tribe that is not a participating tobacco product manufacturer (as defined in section 1402(a), for the same purposes as States and local governments are eligible to receive grants from the Federal Account as provided for in this Act. Indian tribes shall have the flexibility to utilize such grants to meet the unique health care needs of their service populations consistent with the goals and purposes of Federal Indian health care law and policy.

(B) In promulgating regulations for the approval and funding of smoking cessation programs under section 221 the Secretary shall ensure that adequate funding is available to address the high rate of smoking among Native Americans.

(2) HEALTH CARE FUNDING.—

(A) INDIAN HEALTH SERVICE.—Each fiscal year the Secretary shall disburse to the Indian Health Service from the National Tobacco Settlement Trust Fund an amount determined by the Secretary in consultation with the Secretary of the Interior equal to the product of—

(i) the ratio of the total Indian health care service population relative to the total population of the United States; and

(ii) the amount allocated to the States each year from the State Litigation Trust Account.

(B) FUNDING.—The trustees of the Trust Fund shall for each fiscal year transfer to

the Secretary from the State Litigation Trust Account the amount determined pursuant to paragraph (A).

(C) USE OF HEALTH CARE TRUST FUNDS.—Amounts made available to the Indian Health Service under this paragraph shall be made available to Indian tribes pursuant to the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.), shall be used to reduce tobacco consumption, promote smoking cessation, and shall be used to fund health care activities including—

(i) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(ii) health care provider services and equipment;

(iii) domestic and community sanitation associated with clinic and facility construction and improvement;

(iv) inpatient and outpatient services; and

(v) other programs and services which have as their goal raising the health status of Indians.

(f) PREEMPTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act shall be construed to prohibit an Indian tribe from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in this title shall be construed to preempt or otherwise affect any Indian tribe rule or practice that provides greater protections from the health hazard of environmental tobacco smoke.

(g) DISCLAIMER.—Nothing in this Act shall be construed to increase or diminish tribal or State jurisdiction on Indian lands with respect to tobacco-related activities.

TITLE VII—TOBACCO CLAIMS

SEC. 701. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this definition, ownership means ownership of an equity interest, or the equivalent thereof, of ten percent or more, and person means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(2) CIVIL ACTION.—The term "civil action" means any action, lawsuit, or proceeding that is not a criminal action.

(3) COURT.—The term "court" means any judicial or agency court, forum, or tribunal within the United States, including without limitation any Federal, State, or tribal court.

(4) FINAL JUDGMENT.—The term "final judgment" means a judgment on which all rights of appeal or discretionary review have been exhausted or waived or for which the time to appeal or seek such discretionary review has expired.

(5) FINAL SETTLEMENT.—The term "final settlement" means a settlement agreement that is executed and approved as necessary to be fully binding on all relevant parties.

(6) INDIVIDUAL.—The term "individual" means a human being and does not include a corporation, partnership, unincorporated association, trust, estate, or any other public or private entity, State or local government, or Indian tribe.

(7) TOBACCO CLAIM.—The term "tobacco claim" means a claim directly or indirectly arising out of, based on, or related to the health-related effects of tobacco products, including without limitation a claim arising out of, based on or related to allegations regarding any conduct, statement, or omission respecting the health-related effects of such products.

(8) TOBACCO PRODUCT MANUFACTURER.—The term "tobacco product manufacturer" means a person who—

(A) manufactures tobacco products for sale in the United States after the date of enactment of this Act, including tobacco products for sale in the United States through an importer;

(B) is, after the date of enactment of this Act, the first purchaser for resale in the United States of tobacco products manufactured for sale outside of the United States;

(C) engaged in activities described in subparagraph (A) or (B) prior to the date of enactment of this Act, has not engaged in such activities after the date of enactment of this Act, and was not as of June 20, 1997, an affiliate of a tobacco product manufacturer in which the tobacco product manufacturer or its other affiliates owned a 50 percent or greater interest;

(D) is a successor or assign of any of the foregoing;

(E) is an entity to which any of the foregoing directly or indirectly makes, after the date of enactment of this Act, a fraudulent conveyance or a transfer that would otherwise be voidable under part 5 of title 11 of the United States Code, but only to the extent of the interest or obligation transferred; or

(F) is an affiliate of a tobacco product manufacturer.

(9) CASTANO CIVIL ACTIONS.—The term "Castano Civil Actions" means the following civil actions: Gloria Wilkinson Lyons et al. v. American Tobacco Co., et al. (USDC Alabama 96-0881-BH; Agnes McGinty, et al. v. American Tobacco Co., et al. (USDC Arkansas LR-C-96-881); Willard R. Brown, et al. v. R.J. Reynolds Co., et al. (San Diego, California-00711400); Gray Davis & James Ellis, et al. R.J. Reynolds Tobacco Co., et al. (San Diego, California-00706458); Chester Lyons, et al. v. Brown & Williamson Tobacco Corp., et al. (Fulton County, Georgia-E-59346); Rosalyn Peterson, et al. v. American Tobacco Co., et al. (USDC Hawaii-97-00233-HG); Jean Clay , et al. v. American Tobacco Co., et al. (USDC Illinois Benton Division-97-4167-JPG); William J. Norton, et al. v. RJR Nabisco Holdings Corp., et al. (Madison County, Indiana 48D01-9605-CP-0271); Alga Emig, et al. v. American Tobacco Co., et al. (USDC Kansas-97-1121-MLB); Gloria Scott, et al. v. American Tobacco Co., et al. (Orleans Parish, Louisiana-97-1178); Vern Masepohl, et al. v. American Tobacco Co., et al. (USDC Minnesota-3-96-CV-888); Matthew Tepper, et al. v. Philip Morris Incorporated, et al (Bergen County, New Jersey-BER-L-4983-97-E); Carol A. Connor, et al. v. American Tobacco Co., et al. (Bernalillo County, New Mexico-CV96-8464); Edwin Paul Hoskins, et al. v. R.J. Reynolds Tobacco Co., et al.; Josephine Stewart-Lomantz v. Brown & Williamson Tobacco, et al.; Rose Frosina, et al. v. Philip Morris Incorporated, et al.; Catherine Zito, et al. v. American Tobacco Co., et al.; Kevin Mroczkowski, et al. v. Lorillard Tobacco Company, et al. (Supreme Court, New York County, New York-110949 thru 110953); Judith E. Chamberlain, et al. v. American Tobacco Co., et al. (USDC Ohio-1:96CV2005); Brian walls, et al. v. American Tobacco Co., et al. (USDC Oklahoma-97-CV-218-H); Steven R. Arch, et al. v. American Tobacco Co., et al. (USDC Pennsylvania-96-5903-CN); Barreras-Ruiz, et al. v. American Tobacco Co., et al. (USDC Puerto Rico-96-2300-JAF); Joanne Anderson, et al. v. American Tobacco Co., et al. (Know County, Tennessee); Carlis Cole, et al. v. The Tobacco institute, Inc., et al. (USDC Beaumont Texas Division-1:97CV0256); Carrol Jackson, et al. v. Philip Morris Incorporated, et al. (Salt Lake County, Utah-CV No. 98-0901634PI).

SEC. 702. APPLICATION; PREEMPTION.

(a) APPLICATION.—The provisions of this title govern any tobacco claim in any civil action brought in an State, Tribal, or Federal court, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act.

(b) PREEMPTION.—This title supersedes State law only to the extent that State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable State, Tribal, or Federal law.

(c) CRIMINAL LIABILITY UNTOUCHED.—Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors, or their officers, directors, employees, successors, or assigns.

SEC. 703. RULES GOVERNING TOBACCO CLAIMS.

(a) GENERAL CAUSATION PRESUMPTION.—In any civil action to which this title applies brought involving a tobacco claim, there shall be an evidentiary presumption that nicotine is addictive and that the diseases identified as being caused by use of tobacco products in the Center for Disease Control and Prevention Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General (United States Public Health Service 1989), The Health Consequences of Smoking: Involuntary Smoking, (USPHS 1986); and The Health Consequences of Using Smokeless Tobacco, (USPHS 1986), are caused in whole or in part by the use of tobacco products, (hereinafter referred to as the "general causation presumption"), and a jury empaneled to hear a tobacco claim shall be so instructed. In all other respects, the burden of proof as to the issue of whether a plaintiff's specific disease or injury was caused by smoking shall be governed by the law of the State or Tribe in which the tobacco claim was brought. This general causation presumption shall in no way affect the ability of the defendant to introduce evidence or argument which the defendant would otherwise be entitled to present under the law of the State or Tribe in which the tobacco claim was brought to rebut the general causation presumption, or with respect to general causation, specific causation, or alternative causation, or to introduce any other evidence or argument which the defendant would otherwise be entitled to make.

(b) ACTIONS AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.—In any civil action brought involving a tobacco claim against participating tobacco product manufacturers, as that term is defined in title XIV, the provisions of title XIV apply in conjunction with the provisions of this title.

TITLE VIII—TOBACCO INDUSTRY ACCOUNTABILITY REQUIREMENTS AND EMPLOYEE PROTECTION FROM REPRISALS

SEC. 801. ACCOUNTABILITY REQUIREMENTS AND OVERSIGHT OF THE TOBACCO INDUSTRY.

(a) ACCOUNTABILITY.—The Secretary, following regular consultation with the Commissioner of Food and Drugs, the Surgeon

General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health shall annually issue a report as provided for in subsection (c).

(b) TOBACCO COMPANY PLAN.—Within a year after the date of enactment of this Act, each participating tobacco product manufacturer shall adopt and submit to the Secretary a plan to achieve the required percentage reductions in underage use of tobacco products set forth in section 201, and thereafter shall update its plan no less frequently than annually. The annual report of the Secretary may recommend amendment of any plan to incorporate additional measures to reduce underage tobacco use that are consistent with the provisions of this Act.

(c) ANNUAL REPORT.—The Secretary shall submit a report to the Congress by January 31 of each year, which shall be published in the Federal Register. The report shall—

(1) describe in detail each tobacco product manufacturer's compliance with the provisions of this Act and its plan submitted under subsection (b);

(2) report on whether each tobacco product manufacturer's efforts to reduce underage smoking are likely to result in attainment of smoking reduction targets under section 201;

(3) recommend, where necessary, additional measures individual tobacco companies should undertake to meet those targets; and

(4) include, where applicable, the extent to which prior panel recommendations have been adopted by each tobacco product manufacturer.

SEC. 802. TOBACCO PRODUCT MANUFACTURER EMPLOYEE PROTECTION.

(a) PROHIBITED ACTS.—No tobacco product manufacturer may discharge, demote, or otherwise discriminate against any employee with respect to compensation, terms, conditions, benefits, or privileges of employment because the employee (or any person acting under a request of the employee)—

(1) notified the manufacturer, the Commissioner of Food and Drugs, the Attorney General, or any Federal, State, or local public health or law enforcement authority of an alleged violation of this or any other Act;

(2) refused to engage in any practice made unlawful by such Acts, if the employee has identified the alleged illegality to the manufacturer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Acts;

(4) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under such Acts, or a proceeding for the administration or enforcement of any requirement imposed under such Acts;

(5) testified or is about to testify in any such proceeding; or

(6) assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of such Acts.

(b) EMPLOYEE COMPLAINT.—

(1) Any employee of a tobacco product manufacturer who believes that he or she has been discharged, demoted, or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 180 days after such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary alleging such discharge, demotion, or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of its filing.

(2)(A) Upon receipt of a complaint under paragraph (1) of this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days after the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any such person acting in his or her behalf) and the person alleged to have committed such violation of the results of the investigation conducted under this paragraph. Within 90 days after the receipt of such complaint, the Secretary shall (unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation) issue an order either providing the relief prescribed in subparagraph (B) of this paragraph or denying the complaint. An order of the Secretary shall be made on the record after notice and the opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. Upon the conclusion of such a hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B) of this paragraph, but may not order compensatory damages pending a final order. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If, in response to a complaint under paragraph (1) of this subsection, the Secretary determines that a violation of this paragraph has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his or her former position together with compensation (including back pay), terms, conditions, and privileges of his or her employment. The Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this subparagraph, the Secretary, at the request of the complainant, shall assess the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred (as determined by the Secretary), by the complainant for, or in connection with, the bringing of the complaint upon which the order is issued.

(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1) of this subsection, and shall not conduct the investigation required under paragraph (2) of this subsection, unless the complainant has made a *prima facie* showing that any behavior described in subsection (a) of this section was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A) of this paragraph, no investigation required under paragraph (2) of this subsection shall be conducted if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. Relief may not be ordered under paragraph (1) of this subsection if the manufacturer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.

(C) The Secretary may determine that a violation of subsection (a) of this section has occurred only if the complainant has demonstrated that any behavior described in subsection (a) of this section was a contributing factor in unfavorable personnel action alleged in the complaint.

(c) JUDICIAL REVIEW.—

(1) Any person adversely affected or aggrieved by an order issued under subsection (a) of this section may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days after the issuance of the Secretary's order. Judicial review shall be available as provided in chapter 7 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any criminal or civil proceeding.

(d) NONCOMPLIANCE.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary may file a civil action in the United States district court for the district in which the violation occurred to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

(e) ACTION TO ENSURE COMPLIANCE.—

(1) Any person on whose behalf an order was issued under subsection (b)(2) of this section may commence a civil action to require compliance with such order against the person to whom such order was issued. The appropriate United States district court shall have jurisdiction to enforce such order, without regard to the amount in controversy or the citizenship of the parties.

(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(f) ENFORCEMENT.—Any non-discretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) APPLICABILITY TO CERTAIN EMPLOYEES.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the manufacturer (or the agent of the manufacturer) deliberately causes a violation of any requirement of this Act, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq), or any other law or regulation relating to tobacco products.

(h) EFFECT ON OTHER LAWS.—This section shall not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by a tobacco product manufacturer against the employee.

(i) POSTING.—The provisions of this section shall be prominently posted in any place of employment to which this section applies.

TITLE IX—PUBLIC DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS

SEC. 901. FINDINGS.

The Congress finds that—

(1) the American tobacco industry has made claims of attorney-client privilege, attorney work product, and trade secrets to

protect from public disclosure thousands of internal documents sought by civil litigants;

(2) a number of courts have found that these claims of privilege were not made in good faith; and

(3) a prompt and full exposition of tobacco documents will—

(A) promote understanding by the public of the tobacco industry's research and practices; and

(B) further the purposes of this Act.

SEC. 902. APPLICABILITY.

This title applies to all tobacco product manufacturers.

SEC. 903. DOCUMENT DISCLOSURE.

(a) DISCLOSURE TO THE FOOD AND DRUG ADMINISTRATION.—

(1) Within 60 days after the date of enactment of this Act, each tobacco product manufacturer shall submit to the Food and Drug Administration the documents identified in subsection (c), including documents for which trade secret protection is claimed, with the exception of any document for which privilege is claimed, and identified in accordance with subsection (b). Each such manufacturer shall provide the Administration with the privilege and trade secret logs identified under subsection (b).

(2) With respect to documents that are claimed to contain trade secret material, unless and until it is finally determined under this title, either through judicial review or because time for judicial review has expired, that such a document does not constitute or contain trade secret material, the Administration shall treat the document as a trade secret in accordance with section 708 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379) and the regulations promulgated thereunder. Nothing herein shall limit the authority of the Administration to obtain and use, in accordance with any provision of the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder, any document constituting or containing trade secret material. Documents and materials received by the Administration under this provision shall not be obtainable by or releasable to the public through section 552 of title 5, United States Code, or any other provision of law, and the only recourse to obtain these documents shall be through the process established by section 905.

(3) If a document depository is not established under title XIV, the Secretary shall establish by regulation a procedure for making public all documents submitted under paragraph (1) except documents for which trade secret protection has been claimed and for which there has not been a final judicial determination that the document does not contain a trade secret.

(b) SEPARATE SUBMISSION OF DOCUMENTS.—

(1) PRIVILEGED TRADE SECRET DOCUMENTS.—Any document required to be submitted under subsection (c) or (d) that is subject to a claim by a tobacco product manufacturer of attorney-client privilege, attorney work product, or trade secret protection shall be so marked and shall be submitted to the panel under section 904 within 30 days after its appointment. Compliance with this subsection shall not be deemed to be a waiver of any applicable claim of privilege or trade secret protection.

(2) PRIVILEGE AND TRADE SECRET LOGS.—

(A) IN GENERAL.—Within 15 days after submitting documents under paragraph (1), each tobacco product manufacturer shall submit a comprehensive log which identifies on a document-by-document basis all documents produced for which the manufacturer asserts attorney-client privilege, attorney work-product, or trade secrecy. With respect to documents for which the manufacturer previously has asserted one or more of the aforementioned privileges or trade secret protection, the manufacturer shall conduct a good faith *de novo* review of such documents to determine whether such privilege or trade secret protection is appropriate.

(B) ORGANIZATION OF LOG.—The log shall be organized in numerical order based upon the document identifier assigned to each document. For each document, the log shall contain—

(i) a description of the document, including type of document, title of document, name and position or title of each author, addressee, and other recipient who was intended to receive a copy, document date, document purpose, and general subject matter;

(ii) an explanation why the document or a portion of the document is privileged or subject to trade secret protection; and

(iii) a statement whether any previous claim of privilege or trade secret was denied and, if so, in what proceeding.

(C) PUBLIC INSPECTION.—Within 5 days of receipt of such a log, the Depository shall make it available for public inspection and review.

(3) DECLARATION OF COMPLIANCE.—Each tobacco product manufacturer shall submit to the Depository a declaration, in accordance with the requirements of section 1746 of title 28, United States Code, by an individual with responsibility for the *de novo* review of documents, preparation of the privilege log, and knowledge of its contents. The declarant shall attest to the manufacturer's compliance with the requirements of this subsection pertaining to the review of documents and preparation of a privilege log.

(c) DOCUMENT CATEGORIES.—Each tobacco product manufacturer shall submit—

(1) every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) all documents produced by any tobacco product manufacturer, the Center of Tobacco Research or Tobacco Institute to the Attorney General of any State during discovery in any action brought on behalf of any State and commenced after January 1, 1994;

(3) all documents produced by any tobacco product manufacturer, Center for Tobacco Research or Tobacco Institute to the Federal Trade Commission in connection with its investigation into the "Joe Camel" advertising campaign and any underage marketing of tobacco products to minors;

(4) all documents produced by any tobacco product manufacturers, the Center for Tobacco Research or the Tobacco Institute to litigation adversaries during discovery in any private litigation matters;

(5) all documents produced by any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute in any of the following private litigation matters:

(A) Philip Morris v. American Broadcasting Co., Law No. 7609CL94x00181-00 (Cir. Ct. Va. filed Mar. 26, 1994);

(B) Estate of Butler v. R.J. Reynolds Tobacco Co., Civ. A. No. 94-5-53 (Cir. Ct. Miss., filed May 12, 1994);

(C) Haines v. Liggett Group, No. 84-CV-678 (D.N.J., filed Feb. 22, 1984); and

(D) Cipollone v. Liggett Group, No. 83-CV-284 (D.N.J., filed Aug. 1, 1983);

(6) any document produced as evidence or potential evidence or submitted to the Depository by tobacco product manufacturers in any of the actions described in paragraph (5), including briefs and other pleadings, memoranda, interrogatories, transcripts of depositions, and expert witnesses and consultants materials, including correspondence, reports, and testimony;

(7) any additional documents that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute have agreed or been required by any court to produce to litigation adversaries as part of discovery in any action listed in paragraph (2), (3), (4), or (5) but have not yet completed producing as of the date of enactment of this Act;

(8) all indices of documents relating to tobacco products and health, with any such indices that are maintained in computerized form placed into the depository in both a computerized and hard-copy form;

(9) a privilege log describing each document or portion of a document otherwise subject to production in the actions enumerated in this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains, based upon a good faith *de novo* re-review conducted after the date of enactment of this Act is exempt from public disclosure under this title; and

(10) a trade secrecy log describing each document or portion of a document that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this title.

(d) FUTURE DOCUMENTS.—With respect to documents created after the date of enactment of this Act, the tobacco product manufacturers and their trade associations shall—

(1) place the documents in the depository; and

(2) provide a copy of the documents to the Food and Drug Administration (with the exception of documents subject to a claim of attorney-client privilege or attorney work product).

(1) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control relating, referring, or pertaining to—

(A) any studies, research, or analysis of any possible health or pharmacological effects in humans or animals, including addiction, associated with the use of tobacco products or components of tobacco products;

(B) the engineering, manipulation, or control of nicotine in tobacco products;

(C) the sale or marketing of tobacco products;

(D) any research involving safer or less hazardous tobacco products;

(E) tobacco use by minors; or

(F) the relationship between advertising or promotion and the use of tobacco products;

(2) Every existing document (including any document subject to a claim of attorney-client privilege, attorney work product, or trade secret protection) in the manufacturer's possession, custody, or control—

(A) produced, or ordered to be produced, by the tobacco product manufacturer in any health-related civil or criminal proceeding, judicial or administrative; and

(B) that the panel established under section 906 determines is appropriate for submission.

(3) All studies conducted or funded, directly or indirectly, by any tobacco product manufacturer, relating to tobacco product use by minors.

(4) All documents discussing or referring to the relationship, if any, between advertising and promotion and the use of tobacco products by minors.

(5) A privilege log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer maintains is exempt from public disclosure under this title.

(6) A trade secrecy log describing each document or each portion of a document otherwise subject to public disclosure under this subsection that any tobacco product manufacturer, the Center for Tobacco Research, or the Tobacco Institute maintains is exempt from public disclosure under this Act.

(e) DOCUMENT IDENTIFICATION AND INDEX.—Documents submitted under this section shall be sequentially numbered and marked to identify the tobacco product manufacturer. Within 15 days after submission of documents, each tobacco product manufacturer shall supply the panel with a comprehensive document index which references the applicable document categories contained in subsection (b).

SEC. 904. DOCUMENT REVIEW.

(a) AJUDICATION OF PRIVILEGE CLAIMS.—An claim of attorney-client privilege, trade secret protection, or other claim of privilege with respect to a document required to be submitted by this title shall be heard by a 3-judge panel of the United States District Court for the District of Columbia under section 2284 of title 28, United States Code. The panel may appoint special masters, employ such personnel, and establish such procedures as it deems necessary to carry out its functions under this title.

(b) PRIVILEGE.—The panel shall apply the attorney-client privilege, the attorney work-product doctrine, and the trade secret doctrine in a manner consistent with Federal law.

SEC. 905. RESOLUTION OF DISPUTED PRIVILEGE AND TRADE SECRET CLAIMS.

(a) IN GENERAL.—The panel shall determine whether to uphold or reject disputed claims of attorney client privilege, attorney work product, or trade secret protection with respect to documents submitted. Any person may petition the panel to resolve a claim that a document submitted may not be disclosed to the public. Such a determination shall be made by a majority of the panel, in writing, and shall be subject to judicial review as specified in this title. All such determinations shall be made solely on consideration of the subject document and written submissions from the person claiming that the document is privileged or protected by trade secrecy and from any person seeking disclosure of the document. The panel shall cause notice of the petition and the panel's decision to be published in the Federal Register.

(b) FINAL DECISION.—The panel may uphold a claim of privilege or protection in its entirety or, in its sole discretion, it may redact that portion of a document that it determines is protected from public disclosure under subsection (a). Any decision of the panel shall be final unless judicial review is sought under section 906. In the event that judicial review is so sought, the panel's decision shall be stayed pending a final judicial decision.

SEC. 906. APPEAL OF PANEL DECISION.

(a) PETITION; RIGHT OF APPEAL.—Any person may obtain judicial review of a final decision of the panel by filing a petition for review with the United States Court of Appeals for the Federal Circuit within 60 days after the publication of such decision in the Federal Register. A copy of the petition shall be transmitted by the Clerk of the Court to the panel. The panel shall file in the court the record of the proceedings on which the panel based its decision (including any documents reviewed by the panel in *camera*) as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the panel's decision, except that until the filing of the record the panel may modify or set aside its decision.

(b) ADDITIONAL EVIDENCE AND ARGUMENTS.—If any party applies to the court for leave to adduce additional evidence respecting the decision being reviewed and shows to the satisfaction of the court that such additional evidence or arguments are material and that there were reasonable grounds for the failure to adduce such evidence or arguments in the proceedings before the panel, the court may order the panel to provide additional opportunity for the presentation of evidence or arguments in such manner and upon such terms as the court deems proper. The panel may modify its findings or make new findings by reason of the additional evidence or arguments and shall file with the court such modified or new findings, and its recommendation, if any, for the modification or setting aside of the decision being reviewed.

(c) STANDARD OF REVIEW; FINALITY OF JUDGMENTS.—The panel's findings of fact, if supported by substantial evidence on the record taken as a whole, shall be conclusive. The court shall review the panel's legal conclusions *de novo*. The judgment of the court affirming or setting aside the panel's decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) PUBLIC DISCLOSURE AFTER FINAL DECISION.—Within 30 days after a final decision that a document, as redacted by the panel or in its entirety, is not protected from disclosure by a claim of attorney-client privilege, attorney work product, or trade secret protection, the panel shall direct that the document be made available to the Commissioner of Food and Drugs under section 903(a). No Federal, Tribal, or State court shall have jurisdiction to review a claim of attorney-client privilege, attorney work product, or trade secret protection for a document that has lawfully been made available to the public under this subsection.

(e) EFFECT OF NON-DISCLOSURE DECISION ON JUDICIAL PROCEEDINGS.—The panel's decision that a document is protected by attorney-client privilege, attorney work product, or trade secret protection is binding only for the purpose of protecting the document from disclosure by the Depository. The decision by the panel shall not be construed to prevent a document from being disclosed in a judicial proceeding or interfere with the authority of a court to determine whether a document is admissible or whether its production may be compelled.

SEC. 907. MISCELLANEOUS.

The disclosure process in this title is not intended to affect the Federal Rules of Civil or Criminal Procedure or any Federal law which requires the disclosure of documents or which deals with attorney-client privilege, attorney work product, or trade secret protection.

SEC. 908. PENALTIES.

(a) GOOD FAITH REQUIREMENT.—Each tobacco product manufacturer shall act in good faith in asserting claims of privilege or trade secret protection based on fact and law. If the panel determines that a tobacco product manufacturer has not acted in good faith with full knowledge of the truth of the facts asserted and with a reasonable basis under existing law, the manufacturer shall be assessed costs, which shall include the full administrative costs of handling the claim of privilege, and all attorneys' fees incurred by the panel and any party contesting the privilege. The panel may also impose civil penalties of up to $50,000 per violation if it determines that the manufacturer acted in bad faith in asserting a privilege, or knowingly acted with the intent to delay, frustrate, defraud, or obstruct the panel's determination of privilege, attorney work product, or trade secret protection claims.

(b) FAILURE TO PRODUCE DOCUMENT.—A failure by a tobacco product manufacturer to produce indexes and documents in compliance with the schedule set forth in this title, or with such extension as may be granted by the panel, shall be punished by a civil penalty of up to $50,000 per violation. A separate violation occurs for each document the manufacturer has failed to produce in a timely manner. The maximum penalty under this subsection for a related series of violations is $5,000,000. In determining the amount of any civil penalty, the panel shall consider the number of documents, length of delay, any history of prior violations, the ability to pay, and such other matters as justice requires. Nothing in this title shall replace or supersede any criminal sanction under title 18, United States Code, or any other provision of law.

SEC. 909. DEFINITIONS.

For the purposes of this title—

(1) DOCUMENT.—The term "document" includes originals and drafts of any kind of written or graphic matter, regardless of the manner of production or reproduction, of any kind or description, whether sent or received or neither, and all copies thereof that are different in any way from the original (whether by interlineation, receipt stamp, notation, indication of copies sent or received or otherwise) regardless of whether confidential, privileged, or otherwise, including any paper, book, account, photograph, blueprint, drawing, agreement, contract, memorandum, advertising material, letter, telegram, object, report, record, transcript, study, note, notation, working paper, intra-office communication, intra-department communication, chart, minute, index sheet, routing sheet, computer software, computer data, delivery ticket, flow sheet, price list, quotation, bulletin, circular, manual, summary, recording of telephone or other conversation or of interviews, or of conferences, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, regardless of the manner produced or reproduced. Such term also includes any tape, recording, videotape, computerization, or other electronic recording, whether digital or analog or a combination thereof.

(2) TRADE SECRET.—The term "trade secret" means any commercially valuable plan, formula, process, or device that is used for making, compounding, processing, or preparing trade commodities and that can be said to be the end-product of either innovation or substantial effort, for which there is a direct relationship between the plan, formula, process, or device and the productive process.

(3) CERTAIN ACTIONS DEEMED TO BE PROCEEDINGS.—Any action undertaken under this title, including the search, indexing, and production of documents, is deemed to be a "proceeding" before the executive branch of the United States.

(4) OTHER TERMS.—Any term used in this title that is defined in section 701 has the meaning given to it by that section.

TITLE X—LONG-TERM ECONOMIC ASSISTANCE FOR FARMERS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Long-Term Economic Assistance for Farmers Act" or the "LEAF Act".

SEC. 1002. DEFINITIONS.

In this title:

(1) PARTICIPATING TOBACCO PRODUCER.—The term "participating tobacco producer" means a quota holder, quota lessee, or quota tenant.

(2) QUOTA HOLDER.—The term "quota holder" means an owner of a farm on January 1, 1998, for which a tobacco farm marketing quota or farm acreage allotment was established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(3) QUOTA LESSEE.—The term "quota lessee" means—

(A) a producer that owns a farm that produced tobacco pursuant to a lease and transfer to that farm of all or part of a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; or

(B) a producer that rented land from a farm operator to produce tobacco under a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years.

(4) QUOTA TENANT.—The term "quota tenant" means a producer that—

(A) is the principal producer, as determined by the Secretary, of tobacco on a farm where tobacco is produced pursuant to a tobacco farm marketing quota or farm acreage allotment established under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) for any of the 1995, 1996, or 1997 crop years; and

(B) is not a quota holder or quota lessee.

(5) SECRETARY.—The term "Secretary" means—

(A) in subtitles A and B, the Secretary of Agriculture; and

(B) in section 1031, the Secretary of Labor.

(6) TOBACCO PRODUCT IMPORTER.—The term "tobacco product importer" has the meaning given the term "importer" in section 5702 of the Internal Revenue Code of 1986.

(7) TOBACCO PRODUCT MANUFACTURER.—

(A) IN GENERAL.—The term "tobacco product manufacturer" has the meaning given the term "manufacturer of tobacco products" in section 5702 of the Internal Revenue Code of 1986.

(B) EXCLUSION.—The term "tobacco product manufacturer" does not include a person that manufactures cigars or pipe tobacco.

(8) TOBACCO WAREHOUSE OWNER.—The term "tobacco warehouse owner" means a warehouseman that participated in an auction market (as defined in the first section of the Tobacco Inspection Act (7 U.S.C. 511)) during the 1998 marketing year.

(9) FLUE-CURED TOBACCO.—The term "flue-cured tobacco" includes type 21 and type 37 tobacco.

Subtitle A—Tobacco Community Revitalization

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated and transferred to the Secretary for each fiscal year such amounts from the National Tobacco Trust Fund established by section 401, other than from amounts in the State Litigation Settlement Account, as may be necessary to carry out the provisions of this title.

SEC. 1012. EXPENDITURES.

The Secretary is authorized, subject to appropriations, to make payments under—

(1) section 1021 for payments for lost tobacco quota for each of fiscal years 1999 through 2023, but not to exceed $1,650,000,000 for any fiscal year except to the extent the payments are made in accordance with subsection (d)(12) or (e)(9) of section 1021;

(2) section 1022 for industry payments for all costs of the Department of Agriculture associated with the production of tobacco;

(3) section 1023 for tobacco community economic development grants, but not to exceed—

(A) $375,000,000 for each of fiscal years 1999 through 2008, less any amount required to be paid under section 1022 for the fiscal year; and

(B) $450,000,000 for each of fiscal year 2009 through 2023, less any amount required to be paid under section 1022 during the fiscal year;

(4) section 1031 for assistance provided under the tobacco worker transition program, but not to exceed $25,000,000 for any fiscal year; and

(5) subpart 9 of part A of title IV of the Higher Education Act of 1965 for farmer opportunity grants, but not to exceed—

(A) $42,500,000 for each of the academic years 1999–2000 through 2003–2004;

(B) $50,000,000 for each of the academic years 2004–2005 through 2008–2009;

(C) $57,500,000 for each of the academic years 2009–2010 through 2013–2014;

(D) $65,000,000 for each of the academic years 2014–2015 through 2018–2019; and

(E) $72,500,000 for each of the academic years 2019–2020 through 2023–2024.

SEC. 1013. BUDGETARY TREATMENT.

This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide payments to States and eligible persons in accordance with this title.

Subtitle B—Tobacco Market Transition Assistance

SEC. 1021. PAYMENTS FOR LOST TOBACCO QUOTA.

(a) IN GENERAL.—Beginning with the 1999 marketing year, the Secretary shall make payments for lost tobacco quota to eligible quota holders, quota lessees, and quota tenants as reimbursement for lost tobacco quota.

(b) ELIGIBILITY.—To be eligible to receive payments under this section, a quota holder, quota lessee, or quota tenant shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information sufficient to make the demonstration required under paragraph (2); and

(2) demonstrate to the satisfaction of the Secretary that, with respect to the 1997 marketing year—

(A) the producer was a quota holder and realized income (or would have realized income, as determined by the Secretary, but for a medical hardship or crop disaster during the 1997 marketing year) from the production of tobacco through—

(i) the active production of tobacco;

(ii) the lease and transfer of tobacco quota to another farm;

(iii) the rental of all or part of the farm of the quota holder, including the right to produce tobacco, to another tobacco producer; or

(iv) the hiring of a quota tenant to produce tobacco;

(B) the producer was a quota lessee; or

(C) the producer was a quota tenant.

(c) BASE QUOTA LEVEL.—

(1) IN GENERAL.—The Secretary shall determine, for each quota holder, quota lessee, and quota tenant, the base quota level for the 1995 through 1997 marketing years.

(2) QUOTA HOLDERS.—The base quota level for a quota holder shall be equal to the average tobacco farm marketing quota established for the farm owned by the quota holder for the 1995 through 1997 marketing years.

(3) QUOTA LESSEES.—The base quota level for a quota lessee shall be equal to—

(A) 50 percent of the average number of pounds of tobacco quota established for the farm for the 1995 through 1997 marketing years—

(i) that was leased and transferred to a farm owned by the quota lessee; or

(ii) that was rented to the quota lessee for the right to produce the tobacco; less

(B) 25 percent of the average number of pounds of tobacco quota described in subparagraph (A) for which a quota tenant was the principal producer of the tobacco quota.

(4) QUOTA TENANTS.—The base quota level for a quota tenant shall be equal to the sum of—

(A) 50 percent of the average number of pounds of tobacco quota established for a farm for the 1995 through 1997 marketing years—

(i) that was owned by a quota holder; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm; and

(B) 25 percent of the average number of pounds of tobacco quota for the 1995 through 1997 marketing years—

(i)(I) that was leased and transferred to a farm owned by the quota lessee; or

(II) for which the rights to produce the tobacco were rented to the quota lessee; and

(ii) for which the quota tenant was the principal producer of the tobacco on the farm.

(5) MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(A) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the base quota level for each quota holder, quota lessee, or quota tenant shall be determined in accordance with this subsection (based on a poundage conversion) by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average yield per acre for the farm for the type of tobacco for the marketing years.

(B) YIELDS NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the base quota for the quota holder, quota lessee, or quota tenant (based on a poundage conversion) by determining the amount equal to the product obtained by multiplying—

(i) the average tobacco farm marketing quota or allotment for the 1995 through 1997 marketing years; and

(ii) the average county yield per acre for the county in which the farm is located for the type of tobacco for the marketing years.

(d) PAYMENTS FOR LOST TOBACCO QUOTA FOR TYPES OF TOBACCO OTHER THAN FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for all types of tobacco other than flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) OPTION TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Each quota holder, for types of tobacco other than flue-cured tobacco, shall be given the option to relinquish the farm marketing quota or farm acreage allotment of the quota holder in exchange for a payment made under paragraph (3).

(B) NOTIFICATION.—A quota holder shall give notification of the intention of the quota holder to exercise the option at such time and in such manner as the Secretary may require, but not later than January 15, 1999.

(3) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS EXERCISING OPTIONS TO RELINQUISH QUOTA.—

(A) IN GENERAL.—Subject to subparagraph (E), for each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost tobacco quota to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under subparagraph (E).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) LIFETIME LIMITATION ON PAYMENTS.—The total amount of payments made under this paragraph to a quota holder shall not exceed the product obtained by multiplying the base quota level for the quota holder by $8 per pound.

(4) REISSUANCE OF QUOTA.—

(A) REALLOCATION TO LESSEE OR TENANT.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), a quota lessee or quota tenant that was the primary producer during the 1997 marketing year of tobacco pursuant to the farm marketing quota or farm acreage allotment, as determined by the Secretary, shall be given the option of having an allotment of the farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant.

(B) CONDITIONS FOR REALLOCATION.—

(i) TIMING.—A quota lessee or quota tenant that is given the option of having an allotment of a farm marketing quota or farm acreage allotment reallocated to a farm owned by the quota lessee or quota tenant under subparagraph (A) shall have 1 year from the date on which a farm marketing quota or farm acreage allotment is relinquished under paragraph (2) to exercise the option.

(ii) LIMITATION ON ACREAGE ALLOTMENT.—In the case of a farm acreage allotment, the acreage allotment determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(iii) LIMITATION ON MARKETING QUOTA.—In the case of a farm marketing quota, the marketing quota determined for any farm subsequent to any reallocation under subparagraph (A) shall not exceed an amount determined by multiplying—

(I) the average county farm yield, as determined by the Secretary; and

(II) 50 percent of the acreage of cropland of the farm owned by the quota lessee or quota tenant.

(C) ELIGIBILITY OF LESSEE OR TENANT FOR PAYMENTS.—If a farm marketing quota or farm acreage allotment is reallocated to a quota lessee or quota tenant under subparagraph (A)—

(i) the quota lessee or quota tenant shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reallocation; and

(ii) the base quota level for the quota lessee or quota tenant shall not be increased as a result of the reallocation.

(D) REALLOCATION TO QUOTA HOLDERS WITHIN SAME COUNTY OR STATE.—

(i) IN GENERAL.—Except as provided in clause (ii), if there was no quota lessee or quota tenant for the farm marketing quota or farm acreage allotment for a type of tobacco, or if no quota lessee or quota tenant exercises an option of having an allotment of the farm marketing quota or farm acreage allotment for a type of tobacco reallocated, the Secretary shall reapportion the farm marketing quota or farm acreage allotment among the remaining quota holders for the type of tobacco within the same county.

(ii) CROSS-COUNTY LEASING.—In a State in which cross-county leasing is authorized pursuant to section 319(l) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(*l*)), the Secretary shall reapportion the farm marketing quota among the remaining quota holders for the type of tobacco within the same State.

(iii) ELIGIBILITY OF QUOTA HOLDER FOR PAYMENTS.—If a farm marketing quota is reapportioned to a quota holder under this subparagraph—

(I) the quota holder shall not be eligible for any additional payments under paragraph (5) or (6) as a result of the reapportionment; and

(II) the base quota level for the quota holder shall not be increased as a result of the reapportionment.

(E) SPECIAL RULE FOR TENANT OF LEASED TOBACCO.—If a quota holder exercises an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), the farm marketing quota or farm acreage allotment shall be divided evenly between, and the option of reallocating the farm marketing quota or farm acreage allotment shall be offered in equal portions to, the quota lessee and to the quota tenant, if—

(i) during the 1997 marketing year, the farm marketing quota or farm acreage allotment was leased and transferred to a farm owned by the quota lessee; and

(ii) the quota tenant was the primary producer, as determined by the Secretary, of tobacco pursuant to the farm marketing quota or farm acreage allotment.

(5) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA HOLDERS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota holder, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b), and has not exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2), in an amount that is equal to the product obtained by multiplying—

(i) the number of pounds by which the basic farm marketing quota (or poundage conversion) is less than the base quota level for the quota holder; and

(ii) $4 per pound.

(B) POUNDAGE CONVERSION FOR MARKETING QUOTAS OTHER THAN POUNDAGE QUOTAS.—

(i) IN GENERAL.—For each type of tobacco for which there is a marketing quota or allotment (on an acreage basis), the poundage conversion for each quota holder during a marketing year shall be determined by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average yield per acre for the farm for the type of tobacco.

(ii) YIELD NOT AVAILABLE.—If the average yield per acre is not available for a farm, the Secretary shall calculate the poundage conversion for each quota holder during a marketing year by multiplying—

(I) the basic farm acreage allotment for the farm for the marketing year; and

(II) the average county yield per acre for the county in which the farm is located for the type of tobacco.

(6) PAYMENTS FOR LOST TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for a type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee and quota tenant, for types of tobacco other than flue-cured tobacco, that is eligible under subsection (b) in an amount that is equal to the product obtained by multiplying—

(A) the percentage by which the national marketing quota for the type of tobacco is less than the average national marketing quota for the type of tobacco for the 1995 through 1997 marketing years;

(B) the base quota level for the quota lessee or quota tenant; and

(C) $4 per pound.

(7) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(8) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount

payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost tobacco quota are made in accordance with paragraph (12).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraphs (5) and (6) to quota holders, quota lessees, and quota tenants under this subsection to ensure that the total amount of payments for lost tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (5), and (6) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders that have exercised an option to relinquish a tobacco farm marketing quota or farm acreage allotment under paragraph (2) by increasing the amount payable to each such holder under paragraph (3).

(9) SUBSEQUENT SALE AND TRANSFER OF QUOTA.—Effective beginning with the 1999 marketing year, on the sale and transfer of a farm marketing quota or farm acreage allotment under section 316(g) or 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g), 1314e(g))—

(A) the person that sold and transferred the quota or allotment shall have—

(i) the base quota level attributable to the person reduced by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person reduced by the product obtained by multiplying—

(I) the base quota level attributable to the quota; and

(II) $8 per pound; and

(B) if the quota or allotment has never been relinquished by a previous quota holder under paragraph (2), the person that acquired the quota shall have—

(i) the base quota level attributable to the person increased by the base quota level attributable to the quota that is sold and transferred; and

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) $8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is survived by a spouse or 1 or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving dependents in equal shares.

(12) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost tobacco quota as established under paragraphs (5) and (6) to each quota holder, quota lessee, and quota tenant for any affected type of tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for a type of tobacco is less than 50 percent of the national marketing quota or national acreage allotment for the type of tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1); or

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2).

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (7); less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph.

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

(e) PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-CURED TOBACCO.—

(1) ALLOCATION OF FUNDS.—Of the amounts made available under section 1011(d)(1) for payments for lost tobacco quota, the Secretary shall make available for payments under this subsection an amount that bears the same ratio to the amounts made available as—

(A) the sum of all national marketing quotas for flue-cured tobacco during the 1995 through 1997 marketing years; bears to

(B) the sum of all national marketing quotas for all types of tobacco during the 1995 through 1997 marketing years.

(2) RELINQUISHMENT OF QUOTA.—

(A) IN GENERAL.—Each quota holder of flue-cured tobacco shall relinquish the farm marketing quota or farm acreage allotment in exchange for a payment made under paragraph (3) due to the transition from farm marketing quotas as provided under section 317 of the Agricultural Adjustment Act of 1938 for flue-cured tobacco to individual tobacco production permits as provided under section 317A of the Agricultural Adjustment Act of 1938 for flue-cured tobacco.

(B) NOTIFICATION.—The Secretary shall notify the quota holders of the relinquishment of their quota or allotment at such time and in such manner as the Secretary may require, but not later than November 15, 1998.

(3) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA HOLDERS THAT RELINQUISH QUOTA.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco to each quota holder that has relinquished the farm marketing quota or farm acreage allotment of the quota holder under paragraph (2).

(B) AMOUNT.—The amount of a payment made to a quota holder described in subparagraph (A) for a marketing year shall equal 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the farm marketing quota or farm acreage allotment is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(4) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE NOT RELINQUISHED PERMITS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, during any marketing year in which the national marketing quota for flue-cured tobacco is less than the average national marketing quota for the 1995 through 1997 marketing years, the Secretary shall make payments for lost tobacco quota to each quota lessee or quota tenant that—

(i) is eligible under subsection (b);

(ii) has been issued an individual tobacco production permit under section 317A(b) of the Agricultural Adjustment Act of 1938; and

(iii) has not exercised an option to relinquish the permit.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to the product obtained by multiplying—

(i) the number of pounds by which the individual marketing limitation established for the permit is less than twice the base quota level for the quota lessee or quota tenant; and

(ii) $2 per pound.

(5) PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA TO QUOTA LESSEES AND QUOTA TENANTS THAT HAVE RELINQUISHED PERMITS.—

(A) IN GENERAL.—For each of fiscal years 1999 through 2008, the Secretary shall make annual payments for lost flue-cured tobacco quota to each quota lessee and quota tenant that has relinquished an individual tobacco production permit under section 317A(b)(5) of the Agricultural Adjustment Act of 1938.

(B) AMOUNT.—The amount of a payment made to a quota lessee or quota tenant described in subparagraph (A) for a marketing year shall be equal to 1/10 of the lifetime limitation established under paragraph (6).

(C) TIMING.—The Secretary shall begin making annual payments under this paragraph for the marketing year in which the individual tobacco production permit is relinquished.

(D) ADDITIONAL PAYMENTS.—The Secretary may increase annual payments under this paragraph in accordance with paragraph (7)(E) to the extent that funding is available.

(E) PROHIBITION AGAINST PERMIT EXPANSION.—A quota lessee or quota tenant that receives a payment under this paragraph shall be ineligible to receive any new or increased tobacco production permit from the county production pool established under section 317A(b)(8) of the Agricultural Adjustment Act of 1938.

(6) LIFETIME LIMITATION ON PAYMENTS.—Except as otherwise provided in this subsection, the total amount of payments made under this subsection to a quota holder, quota lessee, or quota tenant during the lifetime of the quota holder, quota lessee, or quota tenant shall not exceed the product obtained by multiplying—

(A) the base quota level for the quota holder, quota lessee, or quota tenant; and

(B) $8 per pound.

(7) LIMITATIONS ON AGGREGATE ANNUAL PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the total amount payable under this subsection for any marketing year shall not exceed the amount made available under paragraph (1).

(B) ACCELERATED PAYMENTS.—Paragraph (1) shall not apply if accelerated payments for lost flue-cured tobacco quota are made in accordance with paragraph (9).

(C) REDUCTIONS.—If the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year exceeds the amount made available under paragraph (1), the Secretary shall make a pro rata reduction in the amounts payable under paragraph (4) to quota lessees and quota tenants under this subsection to ensure that the total amount of payments for lost flue-cured tobacco quota does not exceed the amount made available under paragraph (1).

(D) ROLLOVER OF PAYMENTS FOR LOST FLUE-CURED TOBACCO QUOTA.—Subject to subparagraph (A), if the Secretary makes a reduction in accordance with subparagraph (C), the amount of the reduction shall be applied to the next marketing year and added to the payments for lost flue-cured tobacco quota for the marketing year.

(E) ADDITIONAL PAYMENTS TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR QUOTA TENANTS RELINQUISHING PERMITS.—If the amount made available under paragraph (1) exceeds the sum of the amounts determined under paragraphs (3), (4), and (5) for a marketing year, the Secretary shall distribute the amount of the excess pro rata to quota holders by increasing the amount payable to each such holder under paragraphs (3) and (5).

(8) DEATH OF QUOTA HOLDER, QUOTA LESSEE, OR QUOTA TENANT.—If a quota holder, quota lessee or quota tenant that is entitled to payments under paragraph (4) or (5) dies and is survived by a spouse or 1 or more descendants, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the surviving descendants in equal shares.

(9) ACCELERATION OF PAYMENTS.—

(A) IN GENERAL.—On the occurrence of any of the events described in subparagraph (B), the Secretary shall make an accelerated lump sum payment for lost flue-cured tobacco quota as established under paragraphs (3), (4), and (5) to each quota holder, quota lessee, and quota tenant for flue-cured tobacco in accordance with subparagraph (C).

(B) TRIGGERING EVENTS.—The Secretary shall make accelerated payments under subparagraph (A) if after the date of enactment of this Act—

(i) subject to subparagraph (D), for 3 consecutive marketing years, the national marketing quota or national acreage allotment for flue-cured tobacco is less than 50 percent of the national marketing quota or national acreage allotment for flue-cured tobacco for the 1998 marketing year; or

(ii) Congress repeals or makes ineffective, directly or indirectly, any provision of—

(I) section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b);

(II) section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e);

(III) section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445);

(IV) section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445–1);

(V) section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445–2); or

(VI) section 317A of the Agricultural Adjustment Act of 1938.

(C) AMOUNT.—The amount of the accelerated payments made to each quota holder, quota lessee, and quota tenant under this subsection shall be equal to—

(i) the amount of the lifetime limitation established for the quota holder, quota lessee, or quota tenant under paragraph (6); less

(ii) any payments for lost flue-cured tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for flue-cured tobacco that results in the national marketing quota or national acreage allotment not being in effect for flue-cured tobacco shall not be considered a triggering event under this paragraph.

SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT COSTS ASSOCIATED WITH TOBACCO PRODUCTION.

(a) IN GENERAL.—The Secretary shall use such amounts remaining unspent and obligated at the end of each fiscal year to reimburse the Secretary for—

(1) costs associated with the administration of programs established under this title and amendments made by this title;

(2) costs associated with the administration of the tobacco quota and price support programs administered by the Secretary;

(3) costs to the Federal Government of carrying out crop insurance programs for tobacco;

(4) costs associated with all agricultural research, extension, or education activities associated with tobacco;

(5) costs associated with the administration of loan association and cooperative programs for tobacco producers, as approved by the Secretary; and

(6) any other costs incurred by the Department of Agriculture associated with the production of tobacco.

(b) LIMITATIONS.—Amounts made available under subsection (a) may not be used—

(1) to provide direct benefits to quota holders, quota lessees, or quota tenants; or

(2) in a manner that results in a decrease, or an increase relative to other crops, in the amount of the crop insurance premiums assessed to participating tobacco producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(c) DETERMINATIONS.—Not later than September 30, 1998, and each fiscal year thereafter, the Secretary shall determine—

(1) the amount of costs described in subsection (a); and

(2) the amount that will be provided under this section as reimbursement for the costs.

SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS.

(a) AUTHORITY.—The Secretary shall make grants to tobacco-growing States in accordance with this section to enable the States to carry out economic development initiatives in tobacco-growing communities.

(b) APPLICATION.—To be eligible to receive payments under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the State will carry out using amounts received under the grant;

(2) a designation of an appropriate State agency to administer amounts received under the grant; and

(3) a description of the steps to be taken to ensure that the funds are distributed in accordance with subsection (e).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amounts available to carry out this section for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the amounts available as the total farm income of the State derived from the production of tobacco during the 1995 through 1997 marketing years (as determined under paragraph (2)) bears to the total farm income of all States derived from the production of tobacco during the 1995 through 1997 marketing years.

(2) TOBACCO INCOME.—For the 1995 through 1997 marketing years, the Secretary shall determine the amount of farm income derived from the production of tobacco in each State and in all States.

(d) PAYMENTS.—

(1) IN GENERAL.—A State that has an application approved by the Secretary under subsection (b) shall be entitled to a payment under this section in an amount that is equal to its allotment under subsection (c).

(2) FORM OF PAYMENTS.—The Secretary may make payments under this section to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) REALLOTMENTS.—Any portion of the allotment of a State under subsection (c) that the Secretary determines will not be used to carry out this section in accordance with an approved State application required under subsection (b), shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(e) USE AND DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—Amounts received by a State under this section shall be used to

carry out economic development activities, including—

(A) rural business enterprise activities described in subsections (c) and (e) of section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932);

(B) down payment loan assistance programs that are similar to the program described in section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935);

(C) activities designed to help create productive farm or off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural individuals to the economic and social development of tobacco communities;

(D) activities that expand existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies in tobacco communities and that support the development of new industries or commercial ventures;

(E) activities by agricultural organizations that provide assistance directly to participating tobacco producers to assist in developing other agricultural activities that supplement tobacco-producing activities;

(F) initiatives designed to create or expand locally owned value-added processing and marketing operations in tobacco communities;

(G) technical assistance activities by persons to support farmer-owned enterprises, or agriculture-based rural development enterprises, of the type described in section 252 or 253 of the Trade Act of 1974 (19 U.S.C. 2342, 2343); and

(H) initiatives designed to partially compensate tobacco warehouse owners for lost revenues and assist the tobacco warehouse owners in establishing successful business enterprises.

(2) TOBACCO-GROWING COUNTIES.—Assistance may be provided by a State under this section only to assist a county in the State that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years. For purposes of this section, the term "tobacco-growing county" includes a political subdivision surrounded within a State by a county that has been determined by the Secretary to have in excess of $100,000 in income derived from the production of tobacco during 1 or more of the 1995 through 1997 marketing years.

(3) DISTRIBUTION.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Not less than 20 percent of the amounts received by a State under this section shall be used to carry out—

(i) economic development activities described in subparagraph (E) or (F) of paragraph (1); or

(ii) agriculture-based rural development activities described in paragraph (1)(G).

(B) TECHNICAL ASSISTANCE ACTIVITIES.—Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) TOBACCO WAREHOUSE OWNER INITIATIVES.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).

(D) TOBACCO-GROWING COUNTIES.—To be eligible to receive payments under this section, a State shall demonstrate to the Secretary that funding will be provided, during each 5-year period for which funding is provided under this section, for activities in each county in the State that has been determined under paragraph (2) to have in excess of $100,000 in income derived from the production of tobacco, in amounts that are at least equal to the product obtained by multiplying—

(i) the ratio that the tobacco production income in the county determined under paragraph (2) bears to the total tobacco production income for the State determined under subsection (c); and

(ii) 50 percent of the total amounts received by a State under this section during the 5-year period.

(f) PREFERENCES IN HIRING.—A State may require recipients of funds under this section to provide a preference in employment to—

(1) an individual who—

(A) during the 1998 calendar year, was employed in the manufacture, processing, or warehousing of tobacco or tobacco products, or resided, in a county described in subsection (e)(2); and

(B) is eligible for assistance under the tobacco worker transition program established under section 1031; or

(2) an individual who—

(A) during the 1998 marketing year, carried out tobacco quota or relevant tobacco production activities in a county described in subsection (e)(2);

(B) is eligible for a farmer opportunity grant under subpart 9 of part A of title IV of the Higher Education Act of 1965; and

(C) has successfully completed a course of study at an institution of higher education.

(g) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subject to paragraph (2), a State shall provide an assurance to the Secretary that the amount of funds expended by the State and all counties in the State described in subsection (e)(2) for any activities funded under this section for a fiscal year is not less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year.

(2) REDUCTION OF GRANT AMOUNT.—If a State does not provide an assurance described in paragraph (1), the Secretary shall reduce the amount of the grant determined under subsection (c) by an amount equal to the amount by which the amount of funds expended by the State and counties for the activities is less than 90 percent of the amount of funds expended by the State and counties for the activities for the preceding fiscal year, as determined by the Secretary.

(3) FEDERAL FUNDS.—For purposes of this subsection, the amount of funds expended by a State or county shall not include any amounts made available by the Federal Government.

SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 317 (7 U.S.C. 1314c) the following:

"SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL ACREAGE LIMITATION.—The term 'individual acreage limitation' means the number of acres of flue-cured tobacco that may be planted by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual acreage limitations is equal to the national acreage allotment, less the reserve provided under subsection (h); and

"(ii) the individual acreage limitation for a marketing year bears the same ratio to the individual acreage limitation for the previous marketing year as the ratio that the national acreage allotment for the marketing year bears to the national acreage allotment for the previous marketing year, subject to adjustments by the Secretary to account for any reserve provided under subsection (h).

"(2) INDIVIDUAL MARKETING LIMITATION.—The term 'individual marketing limitation' means the number of pounds of flue-cured tobacco that may be marketed by the holder of a permit during a marketing year, calculated—

"(A) prior to—

"(i) any increase or decrease in the number due to undermarketings or overmarketings; and

"(ii) any reduction under subsection (i); and

"(B) in a manner that ensures that—

"(i) the total of all individual marketing limitations is equal to the national marketing quota, less the reserve provided under subsection (h); and

"(ii) the individual marketing limitation for a marketing year is obtained by multiplying the individual acreage limitation by the permit yield, prior to any adjustment for undermarketings or overmarketings.

"(3) INDIVIDUAL TOBACCO PRODUCTION PERMIT.—The term 'individual tobacco production permit' means a permit issued by the Secretary to a person authorizing the production of flue-cured tobacco for any marketing year during which this section is effective.

"(4) NATIONAL ACREAGE ALLOTMENT.—The term 'national acreage allotment' means the quantity determined by dividing—

"(A) the national marketing quota; by

"(B) the national average yield goal.

"(5) NATIONAL AVERAGE YIELD GOAL.—The term 'national average yield goal' means the national average yield for flue-cured tobacco during the 5 marketing years immediately preceding the marketing year for which the determination is being made.

"(6) NATIONAL MARKETING QUOTA.—For the 1999 and each subsequent crop of flue-cured tobacco, the term 'national marketing quota' for a marketing year means the quantity of flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(A) the aggregate of the quantities of flue-cured tobacco that domestic manufacturers of cigarettes estimate that the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

"(B) the average annual quantity of flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

"(C) the quantity, if any, of flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of flue-cured tobacco to establish or maintain the inventory at the reserve stock level for flue-cured tobacco.

"(7) PERMIT YIELD.—The term 'permit yield' means the yield of tobacco per acre for an individual tobacco production permit holder that is—

"(A) based on a preliminary permit yield that is equal to the average yield during the 5 marketing years immediately preceding the marketing year for which the determination is made in the county where the holder of the permit is authorized to plant flue-cured tobacco, as determined by the Secretary, on the basis of actual yields of farms in the county; and

"(B) adjusted by a weighted national yield factor calculated by—

"(i) multiplying each preliminary permit yield by the individual acreage limitation, prior to adjustments for overmarketings, undermarketings, or reductions required under subsection (i); and

"(ii) dividing the sum of the products under clause (i) for all flue-cured individual tobacco production permit holders by the national acreage allotment.

"(b) INITIAL ISSUANCE OF PERMITS.—

"(1) TERMINATION OF FLUE-CURED MARKETING QUOTAS.—On the date of enactment of the National Tobacco Policy and Youth Smoking Reduction Act, farm marketing quotas as provided under section 317 shall no longer be in effect for flue-cured tobacco.

"(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS THAT WERE PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota holder under section 317 that was a principal producer of flue-cured tobacco during the 1998 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) NOTIFICATION.—The Secretary shall notify the holder of each permit of the individual acreage limitation and the individual marketing limitation applicable to the holder for each marketing year.

"(C) INDIVIDUAL ACREAGE LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(D) INDIVIDUAL MARKETING LIMITATION FOR 1999 MARKETING YEAR.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the farm marketing quota that was allotted to a farm owned by the quota holder for the 1997 marketing year shall be considered the individual marketing limitation for the previous marketing year.

"(3) QUOTA HOLDERS THAT WERE NOT PRINCIPAL PRODUCERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), on approval through a referendum under subsection (c)—

"(i) each person that was a quota holder under section 317 but that was not a principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall not be eligible to own a permit; and

"(ii) the Secretary shall not issue any permit during the 25-year period beginning on the date of enactment of this Act to any person that was a quota holder and was not the principal producer of flue-cured tobacco during the 1997 marketing year.

"(B) MEDICAL HARDSHIPS AND CROP DISASTERS.—Subparagraph (A) shall not apply to a person that would have been the principal producer of flue-cured tobacco during the 1997 marketing year but for a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(C) ADMINISTRATION.—The Secretary shall issue regulations—

"(i) defining the term 'person' for the purpose of this paragraph; and

"(ii) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the prohibition established under this paragraph.

"(4) ISSUANCE OF PERMITS TO PRINCIPAL PRODUCERS OF FLUE-CURED TOBACCO.—

"(A) IN GENERAL.—By January 15, 1999, each individual quota lessee or quota tenant (as defined in section 1002 of the LEAF Act) that was the principal producer of flue-cured tobacco during the 1997 marketing year, as determined by the Secretary, shall be issued an individual tobacco production permit under this section.

"(B) INDIVIDUAL ACREAGE LIMITATIONS.—In establishing the individual acreage limitation for the 1999 marketing year under this section, the farm acreage allotment that was allotted to a farm owned by a quota holder for whom the quota lessee or quota tenant was the principal producer of flue-cured tobacco during the 1997 marketing year shall be considered the individual acreage limitation for the previous marketing year.

"(C) INDIVIDUAL MARKETING LIMITATIONS.—In establishing the individual marketing limitation for the 1999 marketing year under this section, the individual marketing limitation for the previous year for an individual described in this paragraph shall be calculated by multiplying—

"(i) the farm marketing quota that was allotted to a farm owned by a quota holder for whom the quota lessee or quota holder was the principal producer of flue-cured tobacco during the 1997 marketing year, by

"(ii) the ratio that—

"(I) the sum of all flue-cured tobacco farm marketing quotas for the 1997 marketing year prior to adjusting for undermarketing and overmarketing; bears to

"(II) the sum of all flue-cured tobacco farm marketing quotas for the 1998 marketing year, after adjusting for undermarketing and overmarketing.

"(D) SPECIAL RULE FOR TENANT OF LEASED FLUE-CURED TOBACCO.—If the farm marketing quota or farm acreage allotment of a quota holder was produced pursuant to an agreement under which a quota lessee rented land from a quota holder and a quota tenant was the primary producer, as determined by the Secretary, of flue-cured tobacco pursuant to the farm marketing quota or farm acreage allotment, the farm marketing quota or farm acreage allotment shall be divided proportionately between the quota lessee and quota tenant for purposes of issuing individual tobacco production permits under this paragraph.

"(5) OPTION OF QUOTA LESSEE OR QUOTA TENANT TO RELINQUISH PERMIT.—

"(A) IN GENERAL.—Each quota lessee or quota tenant that is issued an individual tobacco production permit under paragraph (4) shall be given the option of relinquishing the permit in exchange for payments made under section 1021(e)(5) of the LEAF Act.

"(B) NOTIFICATION.—A quota lessee or quota tenant that is issued an individual tobacco production permit shall give notification of the intention to exercise the option at such time and in such manner as the Secretary may require, but not later than 45 days after the permit is issued.

"(C) REALLOCATION OF PERMIT.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit relinquished under this paragraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(6) ACTIVE PRODUCER REQUIREMENT.—

"(A) REQUIREMENT FOR SHARING RISK.—No individual tobacco production permit shall be issued to, or maintained by, a person that does not fully share in the risk of producing a crop of flue-cured tobacco.

"(B) CRITERIA FOR SHARING RISK.—For purposes of this paragraph, a person shall be considered to have fully shared in the risk of production of a crop if—

"(i) the investment of the person in the production of the crop is not less than 100 percent of the costs of production associated with the crop;

"(ii) the amount of the person's return on the investment is dependent solely on the sale price of the crop; and

"(iii) the person may not receive any of the return before the sale of the crop.

"(C) PERSONS NOT SHARING RISK.—

"(i) FORFEITURE.—Any person that fails to fully share in the risks of production under this paragraph shall forfeit an individual tobacco production permit if, after notice and opportunity for a hearing, the appropriate county committee determines that the conditions for forfeiture exist.

"(ii) REALLOCATION.—The Secretary shall add the authority to produce flue-cured tobacco under the individual tobacco production permit forfeited under this subparagraph to the county production pool established under paragraph (8) for reallocation by the appropriate county committee.

"(D) NOTICE.—Notice of any determination made by a county committee under subparagraph (C) shall be mailed, as soon as practicable, to the person involved.

"(E) REVIEW.—If the person is dissatisfied with the determination, the person may request, not later than 15 days after notice of the determination is received, a review of the determination by a local review committee under the procedures established under section 363 for farm marketing quotas.

"(7) COUNTY OF ORIGIN REQUIREMENT.—For the 1999 and each subsequent crop of flue-cured tobacco, all tobacco produced pursuant to an individual tobacco production permit shall be produced in the same county in which was produced the tobacco produced during the 1997 marketing year pursuant to the farm marketing quota or farm acreage allotment on which the individual tobacco production permit is based.

"(8) COUNTY PRODUCTION POOL.—

"(A) IN GENERAL.—The authority to produce flue-cured tobacco under an individual tobacco production permit that is forfeited, relinquished, or surrendered within a county may be reallocated by the appropriate county committee to tobacco producers located in the same county that apply to the committee to produce flue-cured tobacco under the authority.

"(B) PRIORITY.—In reallocating individual tobacco production permits under this paragraph, a county committee shall provide a priority to—

"(i) an active tobacco producer that controls the authority to produce a quantity of flue-cured tobacco under an individual tobacco production permit that is equal to or less than the average number of pounds of flue-cured tobacco that was produced by the producer during each of the 1995 through 1997 marketing years, as determined by the Secretary; and

"(ii) a new tobacco producer.

"(C) CRITERIA.—Individual tobacco production permits shall be reallocated by the appropriate county committee under this paragraph in a fair and equitable manner after taking into consideration—

"(i) the experience of the producer;

"(ii) the availability of land, labor, and equipment for the production of tobacco;

"(iii) crop rotation practices; and

"(iv) the soil and other physical factors affecting the production of tobacco.

"(D) MEDICAL HARDSHIPS AND CROP DISASTERS.—Notwithstanding any other provision of this Act, the Secretary may issue an individual tobacco production permit under this paragraph to a producer that is otherwise ineligible for the permit due to a medical hardship or crop disaster that occurred during the 1997 marketing year.

"(c) REFERENDUM.—

"(1) ANNOUNCEMENT OF QUOTA AND ALLOTMENT.—Not later than December 15, 1998, the Secretary pursuant to subsection (b) shall determine and announce—

"(A) the quantity of the national marketing quota for flue-cured tobacco for the 1999 marketing year; and

"(B) the national acreage allotment and national average yield goal for the 1999 crop of flue-cured tobacco.

"(2) SPECIAL REFERENDUM.—Not later than 30 days after the announcement of the quantity of the national marketing quota in 2001, the Secretary shall conduct a special referendum of the tobacco production permit holders that were the principal producers of flue-cured tobacco of the 1997 crop to determine whether the producers approve or oppose the continuation of individual tobacco production permits on an acreage-poundage basis as provided in this section for the 2002 through 2004 marketing years.

"(3) APPROVAL OF PERMITS.—If the Secretary determines that more than 66⅔ percent of the producers voting in the special referendum approve the establishment of individual tobacco production permits on an acreage-poundage basis—

"(A) individual tobacco production permits on an acreage-poundage basis as provided in this section shall be in effect for the 2002 through 2004 marketing years; and

"(B) marketing quotas on an acreage-poundage basis shall cease to be in effect for the 2002 through 2004 marketing years.

"(4) DISAPPROVAL OF PERMITS.—If individual tobacco production permits on an acreage-poundage basis are not approved by more than 66⅔ percent of the producers voting in the referendum, no marketing quotas on an acreage-poundage basis shall continue in effect that were proclaimed under section 317 prior to the referendum.

"(5) APPLICABLE MARKETING YEARS.—If individual tobacco production permits have been made effective for flue-cured tobacco on an acreage-poundage basis pursuant to this subsection, the Secretary shall, not later than December 15 of any future marketing year, announce a national marketing quota for that type of tobacco for the next 3 succeeding marketing years if the marketing year is the last year of 3 consecutive years for which individual tobacco production permits previously proclaimed will be in effect.

"(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKETING QUOTA.—The Secretary shall determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the second and third marketing years of any 3-year period for which individual tobacco production permits are in effect on or before the December 15 immediately preceding the beginning of the marketing year to which the quota, allotment, and goal apply.

"(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—If a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of individual tobacco production permits, individual acreage limitations, and individual marketing limitations under this section for the crop and marketing year covered by the determinations.

"(f) ASSIGNMENT OF TOBACCO PRODUCTION PERMITS.—

"(1) LIMITATION TO SAME COUNTY.—Each individual tobacco production permit holder shall assign the individual acreage limitation and individual marketing limitation to 1 or more farms located within the county of origin of the individual tobacco production permit.

"(2) FILING WITH COUNTY COMMITTEE.—The assignment of an individual acreage limitation and individual marketing limitation shall not be effective until evidence of the assignment, in such form as required by the Secretary, is filed with and determined by the county committee for the county in which the farm involved is located.

"(3) LIMITATION ON TILLABLE CROPLAND.—The total acreage assigned to any farm under this subsection shall not exceed the acreage of cropland on the farm.

"(g) PROHIBITION ON SALE OR LEASING OF INDIVIDUAL TOBACCO PRODUCTION PERMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall not permit the sale and transfer, or lease and transfer, of an individual tobacco production permit issued under this section.

"(2) TRANSFER TO DESCENDANTS.—

"(A) DEATH.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section, the permit shall transfer to the surviving spouse of the person or, if there is no surviving spouse, to surviving direct descendants of the person.

"(B) TEMPORARY INABILITY TO FARM.—In the case of the death of a person to whom an individual tobacco production permit has been issued under this section and whose descendants are temporarily unable to produce a crop of tobacco, the Secretary may hold the license in the name of the descendants for a period of not more than 18 months.

"(3) VOLUNTARY TRANSFERS.—A person that is eligible to obtain an individual tobacco production permit under this section may at any time transfer all or part of the permit to the person's spouse or direct descendants that are actively engaged in the production of tobacco.

"(h) RESERVE.—

"(1) IN GENERAL.—For each marketing year for which individual tobacco production permits are in effect under this section, the Secretary may establish a reserve from the national marketing quota in a quantity equal to not more than 1 percent of the national marketing quota to be available for—

"(A) making corrections of errors in individual acreage limitations and individual marketing limitations;

"(B) adjusting inequities; and

"(C) establishing individual tobacco production permits for new tobacco producers (except that not less than two-thirds of the reserve shall be for establishing such permits for new tobacco producers).

"(2) ELIGIBLE PERSONS.—To be eligible for a new individual tobacco production permit, a producer must not have been the principal producer of tobacco during the immediately preceding 5 years.

"(3) APPORTIONMENT FOR NEW PRODUCERS.—The part of the reserve held for apportionment to new individual tobacco producers shall be allotted on the basis of—

"(A) land, labor, and equipment available for the production of tobacco;

"(B) crop rotation practices;

"(C) soil and other physical factors affecting the production of tobacco; and

"(D) the past tobacco-producing experience of the producer.

"(4) PERMIT YIELD.—The permit yield for any producer for which a new individual tobacco production permit is established shall be determined on the basis of available productivity data for the land involved and yields for similar farms in the same county.

"(i) PENALTIES.—

"(1) PRODUCTION ON OTHER FARMS.—If any quantity of tobacco is marketed as having been produced under an individual acreage limitation or individual marketing limitation assigned to a farm but was produced on a different farm, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(2) FALSE REPORT.—If a person to which an individual tobacco production permit is issued files, or aids or acquiesces in the filing of, a false report with respect to the assignment of an individual acreage limitation or individual marketing limitation for a quantity of tobacco, the individual acreage limitation or individual marketing limitation for the following marketing year shall be forfeited.

"(j) MARKETING PENALTIES.—

"(1) IN GENERAL.—When individual tobacco production permits under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 shall apply in the same manner and to the same extent as they would apply under section 317(g) if farm marketing quotas were in effect.

"(2) PRODUCTION ON OTHER FARMS.—If a producer falsely identifies tobacco as having been produced on or marketed from a farm to which an individual acreage limitation or individual marketing limitation has been assigned, future individual acreage limitations and individual marketing limitations shall be forfeited.".

SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PROGRAMS.

(a) PROGRAM REFERENDA.—Section 312(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is amended—

(1) by striking "(c) Within thirty" and inserting the following:

"(c) REFERENDA ON QUOTAS.—

"(1) IN GENERAL.—Not later than 30"; and

(2) by adding at the end the following:

"(2) REFERENDA ON PROGRAM CHANGES.—

"(A) IN GENERAL.—In the case of any type of tobacco for which marketing quotas are in effect, on the receipt of a petition from more than 5 percent of the producers of that type of tobacco in a State, the Secretary shall conduct a statewide referendum on any proposal related to the lease and transfer of tobacco quota within a State requested by the petition that is authorized under this part.

"(B) APPROVAL OF PROPOSALS.—If a majority of producers of the type of tobacco in the State approve a proposal in a referendum conducted under subparagraph (A), the Secretary shall implement the proposal in a manner that applies to all producers and quota holders of that type of tobacco in the State.".

(b) PURCHASE REQUIREMENTS.—Section 320B of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is amended—

(1) in subsection (c)—

(A) by striking "(c) The amount" and inserting "(c) AMOUNT OF PENALTY.—For the 1998 and subsequent marketing years, the amount"; and

(B) by striking paragraph (1) and inserting the following:

"(1) 105 percent of the average market price for the type of tobacco involved during the preceding marketing year; and".

(c) ELIMINATION OF TOBACCO MARKETING ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by striking subsection (g).

(2) CONFORMING AMENDMENT.—Section 422(c) of the Uruguay Round Agreements Act (Public Law 103-465; 7 U.S.C. 1445 note) is amended by striking "section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445-1, or 1445-2)" and inserting "section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1, 1445-2)".

(d) ADJUSTMENT FOR LAND RENTAL COSTS.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following:

"(h) ADJUSTMENT FOR LAND RENTAL COSTS.—For each of the 1999 and 2000 marketing years for flue-cured tobacco, after consultation with producers, State farm organizations and cooperative associations, the Secretary shall make an adjustment in the price support level for flue-cured tobacco equal to the annual change in the average cost per pound to flue-cured producers, as determined by the Secretary, under agreements through which producers rent land to produce flue-cured tobacco.".

(e) FIRE-CURED AND DARK AIR-CURED TOBACCO PROGRAMS.—

(1) LIMITATION ON TRANSFERS.—Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended—

(A) by striking "ten" and inserting "30"; and

(B) by inserting "during any crop year" after "transferred to any farm".

(2) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by adding at the end the following:

"(k) LOSS OF ALLOTMENT OR QUOTA THROUGH UNDERPLANTING.—Effective for the 1999 and subsequent marketing years, no acreage allotment or acreage-poundage quota, other than a new marketing quota, shall be established for a farm on which no fire-cured or dark air-cured tobacco was planted or considered planted during at least 2 of the 3 crop years immediately preceding the crop year for which the acreage allotment or acreage-poundage quota would otherwise be established.".

(f) EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.—

(1) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured quota tobacco"; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(ii) by striking subclause (II) and inserting the following:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and".

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and fire-cured and dark air-cured tobacco"; and

(B) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

Subtitle C—Farmer and Worker Transition Assistance

SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.

(a) GROUP ELIGIBILITY REQUIREMENTS.—

(1) CRITERIA.—A group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) shall be certified as eligible to apply for adjustment assistance under this section pursuant to a petition filed under subsection (b) if the Secretary of Labor determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and—

(A) the sales or production, or both, of the firm or subdivision have decreased absolutely; and

(B) the implementation of the national tobacco settlement contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision.

(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—In paragraph (1)(B), the term "contributed importantly" means a cause that is important but not necessarily more important than any other cause.

(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this section may be filed by a group of workers (including workers in any firm or subdivision of a firm involved in the manufacture, processing, or warehousing of tobacco or tobacco products) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which the workers' firm or subdivision thereof is located.

(2) FINDINGS AND ASSISTANCE.—On receipt of a petition under paragraph (1), the Governor shall—

(A) notify the Secretary that the Governor has received the petition;

(B) within 10 days after receiving the petition—

(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1); and

(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons for the finding, to the Secretary for action under subsection (c); and

(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal laws are made available to the workers.

(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

(1) IN GENERAL.—The Secretary, within 30 days after receiving a petition under subsection (b)(2)(B)(ii), shall determine whether the petition meets the criteria described in subsection (a)(1). On a determination that the petition meets the criteria, the Secretary shall issue to workers covered by the petition a certification of eligibility to apply for the assistance described in subsection (d).

(2) DENIAL OF CERTIFICATION.—On the denial of a certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of other applicable assistance programs to determine if the workers may be certified under the other programs.

(d) COMPREHENSIVE ASSISTANCE.—

(1) IN GENERAL.—Workers covered by a certification issued by the Secretary under subsection (c)(1) shall be provided with benefits and services described in paragraph (2) in the same manner and to the same extent as workers covered under a certification under subchapter A of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.), except that the total amount of payments under this section for any fiscal year shall not exceed $25,000,000.

(2) BENEFITS AND SERVICES.—The benefits and services described in this paragraph are the following:

(A) Employment services of the type described in section 235 of the Trade Act of 1974 (19 U.S.C. 2295).

(B) Training described in section 236 of the Trade Act of 1974 (19 U.S.C. 2296), except that notwithstanding the provisions of section 236(a)(2)(A) of that Act, the total amount of payments for training under this section for any fiscal year shall not exceed $12,500,000.

(C) Tobacco worker readjustment allowances, which shall be provided in the same manner as trade readjustment allowances are provided under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), except that—

(i) the provisions of sections 231(a)(5)(C) and 231(c) of that Act (19 U.S.C. 2291(a)(5)(C), 2291(c)), authorizing the payment of trade readjustment allowances on a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of allowances under this section; and

(ii) notwithstanding the provisions of section 233(b) of that Act (19 U.S.C. 2293(b)), in order for a worker to qualify for tobacco readjustment allowances under this section, the worker shall be enrolled in a training program approved by the Secretary of the type described in section 236(a) of that Act (19 U.S.C. 2296(a)) by the later of—

(I) the last day of the 16th week of the worker's initial unemployment compensation benefit period; or

(II) the last day of the 6th week after the week in which the Secretary issues a certification covering the worker.

In cases of extenuating circumstances relating to enrollment of a worker in a training program under this section, the Secretary may extend the time for enrollment for a period of not to exceed 30 days.

(D) Job search allowances of the type described in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(E) Relocation allowances of the type described in section 238 of the Trade Act of 1974 (19 U.S.C. 2298).

(e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAYMENTS FOR LOST TOBACCO QUOTA.—No

benefits or services may be provided under this section to any individual who has received payments for lost tobacco quota under section 1021.

(f) FUNDING.—Of the amounts appropriated to carry out this title, the Secretary may use not to exceed $25,000,000 for each of fiscal years 1999 through 2008 to provide assistance under this section.

(g) EFFECTIVE DATE.—This section shall take effect on the date that is the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

(h) TERMINATION DATE.—No assistance, vouchers, allowances, or other payments may be provided under this section after the date that is the earlier of—

(1) the date that is 10 years after the effective date of this section under subsection (g); or

(2) the date on which legislation establishing a program providing dislocated workers with comprehensive assistance substantially similar to the assistance provided by this section becomes effective.

SEC. 1032. FARMER OPPORTUNITY GRANTS.

Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"Subpart 9—Farmer Opportunity Grants

"SEC. 420D. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to assist in making available the benefits of postsecondary education to eligible students (determined in accordance with section 420F) in institutions of higher education by providing farmer opportunity grants to all eligible students.

"SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETERMINATIONS; APPLICATIONS.

"(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—

"(1) PROGRAM AUTHORITY.—From amounts made available under section 1011(d)(5) of the LEAF Act, the Secretary, during the period beginning July 1, 1999, and ending September 30, 2024, shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (determined in accordance with section 420F) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a farmer opportunity grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of the sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based on an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which the students are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

"(3) DESIGNATION.—Grants made under this subpart shall be known as 'farmer opportunity grants'.

"(b) AMOUNT OF GRANTS.—

"(1) AMOUNTS.—

"(A) IN GENERAL.—The amount of the grant for a student eligible under this subpart shall be—

"(i) $1,700 for each of the academic years 1999–2000 through 2003–2004;

"(ii) $2,000 for each of the academic years 2004–2005 through 2008–2009;

"(iii) $2,300 for each of the academic years 2009–2010 through 2013–2014;

"(iv) $2,600 for each of the academic years 2014–2015 through 2018–2019; and

"(v) $2,900 for each of the academic years 2019–2020 through 2023–2024.

"(B) PART-TIME RULE.—In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the grant for which that student is eligible shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this subparagraph, computed in accordance with this subpart. The schedule of reductions shall be established by regulation and published in the Federal Register.

"(2) MAXIMUM.—No grant under this subpart shall exceed the cost of attendance (as described in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a grant exceeds the cost of attendance for that year, the amount of the grant shall be reduced to an amount equal to the cost of attendance at the institution.

"(3) PROHIBITION.—No grant shall be awarded under this subpart to any individual who is incarcerated in any Federal, State, or local penal institution.

"(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—The period during which a student may receive grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance, except that any period during which the student is enrolled in a noncredit or remedial course of study as described in paragraph (2) shall not be counted for the purpose of this paragraph.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to—

"(A) exclude from eligibility courses of study that are noncredit or remedial in nature and that are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills; and

"(B) exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

"(3) PROHIBITION.—No student is entitled to receive farmer opportunity grant payments concurrently from more than 1 institution or from the Secretary and an institution.

"(d) APPLICATIONS FOR GRANTS.—

"(1) IN GENERAL.—The Secretary shall from time to time set dates by which students shall file applications for grants under this subpart. The filing of applications under this subpart shall be coordinated with the filing of applications under section 401(c).

"(2) INFORMATION AND ASSURANCES.—Each student desiring a grant for any year shall file with the Secretary an application for the grant containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the Secretary's functions and responsibilities under this subpart.

"(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) INSUFFICIENT FUNDING.—If, for any fiscal year, the funds made available to carry out this subpart are insufficient to satisfy fully all grants for students determined to be eligible under section 420F, the amount of the grant provided under subsection (b) shall be reduced on a pro rata basis among all eligible students.

"(g) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education that enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of the agreement, to be a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of farmer opportunity grants shall not be considered to be individual grantees for purposes of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).

"SEC. 420F. STUDENT ELIGIBILITY.

"(a) IN GENERAL.—In order to receive any grant under this subpart, a student shall—

"(1) be a member of a tobacco farm family in accordance with subsection (b);

"(2) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which the student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with section 487, and not be enrolled in an elementary or secondary school;

"(3) if the student is presently enrolled at an institution of higher education, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with subsection (c);

"(4) not owe a refund on grants previously received at any institution of higher education under this title, or be in default on any loan from a student loan fund at any institution provided for in part D, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(5) file with the institution of higher education that the student intends to attend, or is attending, a document, that need not be notarized, but that shall include—

"(A) a statement of educational purpose stating that the money attributable to the grant will be used solely for expenses related to attendance or continued attendance at the institution; and

"(B) the student's social security number; and

"(6) be a citizen of the United States.

"(b) TOBACCO FARM FAMILIES.—

"(1) IN GENERAL.—For the purpose of subsection (a)(1), a student is a member of a tobacco farm family if during calendar year 1998 the student was—

"(A) an individual who—

"(i) is a participating tobacco producer (as defined in section 1002 of the LEAF Act); or

"(ii) is otherwise actively engaged in the production of tobacco;

"(B) a spouse, son, daughter, stepson, or stepdaughter of an individual described in subparagraph (A);

"(C) an individual—

"(i) who was a brother, sister, stepbrother, stepsister, son-in-law, or daughter-in-law of an individual described in subparagraph (A); and

"(ii) whose principal place of residence was the home of the individual described in subparagraph (A); or

"(D) an individual who was a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of an individual described in subparagraph (A).

"(2) ADMINISTRATION.—On request, the Secretary of Agriculture shall provide to the Secretary such information as is necessary to carry out this subsection.

"(c) SATISFACTORY PROGRESS.—

"(1) IN GENERAL.—For the purpose of subsection (a)(3), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution; and

"(B) the student has at least a cumulative C average or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) SPECIAL RULE.—Whenever a student fails to meet the eligibility requirements of subsection (a)(3) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(3) for a grant under this subpart.

"(3) WAIVER.—Any institution of higher education at which the student is in attendance may waive paragraph (1) or (2) for undue hardship based on—

"(A) the death of a relative of the student;

"(B) the personal injury or illness of the student; or

"(C) special circumstances as determined by the institution.

"(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of the certificate, to be eligible for any assistance under this subpart, the student shall meet either 1 of the following standards:

"(1) EXAMINATION.—The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that the student can benefit from the education or training being offered. The examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) DETERMINATION.—The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves the process. In determining whether to approve or disapprove the process, the Secretary shall take into account the effectiveness of the process in enabling students without secondary school diplomas or the recognized equivalent to benefit from the instruction offered by institutions utilizing the process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

"(e) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive a grant under this subpart for a correspondence course unless the course is part of a program leading to an associate, bachelor, or graduate degree.

"(f) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institute or school that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)(C))) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by the institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at the institution equals or exceeds 50 percent of the courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive a grant under this subpart may be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to the student.

"(3) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that the term does not include a course that is delivered using video cassette or disc recordings at the institution and that is not delivered in person to other students of that institution.

"(g) STUDY ABROAD.—Nothing in this subpart shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive a grant under this subpart, without regard to whether the study abroad program is required as part of the student's degree program.

"(h) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary, in cooperation with the Commissioner of Social Security, shall verify any social security number provided by a student to an eligible institution under subsection (a)(5)(B) and shall enforce the following conditions:

"(1) PENDING VERIFICATION.—Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this subpart because social security number verification is pending.

"(2) DENIAL OR TERMINATION.—If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant under this subpart until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed to permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless the error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless the error was a result of fraud on the part of the student.".

Subtitle D—Immunity

SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS AND TOBACCO WAREHOUSE OWNERS.

Notwithstanding any other provision of this title, a participating tobacco producer, tobacco-related growers association, or tobacco warehouse owner or employee may not be subject to liability in any Federal or State court for any cause of action resulting from the failure of any tobacco product manufacturer, distributor, or retailer to comply with the National Tobacco Policy and Youth Smoking Reduction Act.

SEC. 1042. ASSISTANCE FOR PRODUCERS EXPERIENCING LOSSES OF FARM INCOME.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, from amounts made available under section 1012(3)(A), the Secretary shall use up to $250,000,000 for each of fiscal years 1999 through 2004 to establish a program to indemnify eligible producers that have experienced, or are experiencing, catastrophic losses in farm income during any of the 1997 through 2004 crop years, as determined by the Secretary.

(b) GROSS INCOME AND PAYMENT LIMITATIONS.—In carrying out this section, the Secretary shall, to the maximum extent practicable, use gross income and payment limitations established for the Disaster Reserve Assistance Program under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a).

(c) EFFECT ON OTHER PAYMENTS.—The amount available in section 1012(3)(A) for tobacco community economic development grants under section 1023 shall be reduced by any amount appropriated under this section. None of the payments made under this section shall limit or alter in any manner the payments authorized under section 1021 of this Act.

TITLE XI—MISCELLANEOUS PROVISIONS

Subtitle A—International Provisions

SEC. 1101. POLICY.

It shall be the policy of the United States government to pursue bilateral and multilateral agreements that include measures designed to—

(1) restrict or eliminate tobacco advertising and promotion aimed at children;

(2) require effective warning labels on packages and advertisements of tobacco products;

(3) require disclosure of tobacco ingredient information to the public;

(4) limit access to tobacco products by young people;

(5) reduce smuggling of tobacco and tobacco products;

(6) ensure public protection from environmental tobacco smoke; and

(7) promote tobacco product policy and program information sharing between or among the parties to those agreements.

SEC. 1102. TOBACCO CONTROL NEGOTIATIONS.

The President, in consultation with the Secretary of State, the Secretary of Health

and Human Services, and the United States Trade Representative, shall—

(1) act as the lead negotiator for the United States in the area of international tobacco control;

(2) coordinate among U.S. foreign policy and trade negotiators in the area of effective international tobacco control policy;

(3) work closely with non-governmental groups, including public health groups; and

(4) report annually to the Congress on the progress of negotiations to achieve effective international tobacco control policy.

SEC. 1103. REPORT TO CONGRESS.

Not later than 150 days after the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall transmit to the Congress a report identifying the international fora wherein international tobacco control efforts may be negotiated.

SEC. 1104. FUNDING.

There are authorized such sums as are necessary to carry out the provisions of this subtitle.

SEC. 1105. PROHIBITION OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) IN GENERAL.—No officer, employee, department, or agency of the United States may promote the sale or export of tobacco or tobacco products, or seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products. The United States Trade Representative shall consult with the Secretary regarding inquiries, negotiations, and representations with respect to tobacco and tobacco products, including whether proposed restrictions are reasonable protections of public health.

(b) NOTIFICATION.—Whenever such inquiries, negotiations, or representations are made, the United States Trade Representative shall notify the Congress within 10 days afterwards regarding the nature of the inquiry, negotiation, or representation.

SEC. 1106. HEALTH LABELING OF TOBACCO PRODUCTS FOR EXPORT.

(a) IN GENERAL.—

(1) EXPORTS MUST BE LABELED.—It shall be unlawful for any United States person, directly or through approval or facilitation of a transaction by a foreign person, to make use of the United States mail or of any instrument of interstate commerce to authorize or contribute to the export from the United States any tobacco product unless the tobacco product packaging contains a warning label that—

(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

(B) complies with the specific health hazard warning labeling requirements of the foreign country to which the product is exported.

(2) U.S. REQUIREMENTS APPLY IF THE DESTINATION COUNTRY DOES NOT REQUIRE SPECIFIC HEALTH HAZARD WARNING LABELS.—Subparagraph (B) of paragraph (1) does not apply to exports to a foreign country that does not have any specific health hazard warning label requirements for the tobacco product being exported.

(b) UNITED STATES PERSON DEFINED.—For purposes of this section, the term "United States person" means—

(1) an individual who is a citizen, national, or resident of the United States; and

(2) a corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States.

(c) REPORT TO CONGRESS ON ENFORCEMENT; FEASIBILITY REGULATIONS.—

(1) THE PRESIDENT.—The President shall—

(A) report to the Congress within 90 days after the date of enactment of this Act—

(i) regarding methods to ensure compliance with subsection (a); and

(ii) listing countries whose health warnings related to tobacco products are substantially similar to those in the United States; and

(B) promulgate regulations within 1 year after the date of enactment of this Act that will ensure compliance with subsection (a).

(2) THE SECRETARY.—The Secretary shall determine through regulation the feasibility and practicability of requiring health warning labeling in the language of the country of destination weighing the health and other benefits and economic and other costs. To the greatest extent practicable, the Secretary should design a system that requires the language of the country of destination while minimizing the dislocative effects of such a system.

SEC. 1107. INTERNATIONAL TOBACCO CONTROL AWARENESS.

(a) ESTABLISHMENT OF INTERNATIONAL TOBACCO CONTROL AWARENESS.—The Secretary is authorized to establish an international tobacco control awareness effort. The Secretary shall—

(1) promote efforts to share information and provide education internationally about the health, economic, social, and other costs of tobacco use, including scientific and epidemiological data related to tobacco and tobacco use and enhancing countries' capacity to collect, analyze, and disseminating such data;

(2) promote policies and support and coordinate international efforts, including international agreements or arrangements, that seek to enhance the awareness and understanding of the costs associated with tobacco use;

(3) support the development of appropriate governmental control activities in foreign countries, such as assisting countries to design, implement, and evaluate programs and policies used in the United States or other countries; including the training of United States diplomatic and commercial representatives outside the United States;

(4) undertake other activities as appropriate in foreign countries that help achieve a reduction of tobacco use;

(5) permit United States participation in annual meetings of government and non-government representatives concerning international tobacco use and efforts to reduce tobacco use;

(6) promote mass media campaigns, including paid counter-tobacco advertisements to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(7) create capacity and global commitment to reduce international tobacco use and prevent youth smoking, including the use of models of previous public health efforts to address global health problems.

(b) ACTIVITIES.—

(1) IN GENERAL.—The activities under subsection (a) shall include—

(A) public health and education programs;

(B) technical assistance;

(C) cooperative efforts and support for related activities of multilateral organization and international organizations;

(D) training; and

(E) such other activities that support the objectives of this section as may be appropriate.

(2) GRANTS AND CONTRACTS.—In carrying out this section, the Secretary shall make grants to, enter into and carry out agreements with, and enter into other transactions with any individual, corporation, or other entity, whether within or outside the United States, including governmental and nongovernmental organizations, international organizations, and multilateral organizations.

(3) TRANSFER OF FUNDS TO AGENCIES.—The Secretary may transfer to any agency of the United States any part of any funds appropriated for the purpose of carrying out this section. Funds authorized to be appropriated by this section shall be available for obligation and expenditure in accordance with the provisions of this section or in accordance with the authority governing the activities of the agency to which such funds are transferred.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from the National Tobacco Trust Fund, to carry out the provisions of this section, including the administrative costs incurred by any agency of the United States in carrying out this section, $350,000,000 for each of the fiscal years 1999 through 2004, and such sums as may be necessary for each fiscal year thereafter. A substantial amount of such funds shall be granted to non-governmental organizations. Any amount appropriated pursuant to this authorization shall remain available without fiscal year limitation until expended.

Subtitle B—Anti-smuggling Provisions

SEC. 1131. DEFINITIONS.

(a) INCORPORATION OF CERTAIN DEFINITIONS.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "roll-your-own tobacco", "smokeless tobacco", "State", "tobacco product", and "United States", shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 5702(p), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) OTHER DEFINITIONS.—In this subtitle:

(1) AFFILIATE.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of other or others of such persons, and any 2 or more of such persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) INTERSTATE OR FOREIGN COMMERCE.—The term "interstate or foreign commerce" means any commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) PACKAGE.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) RETAILER.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product at retail. The term "retailer" includes any duty free store that sells, offers for sale, or otherwise distributes at retail in any single transaction 30 or less

packages, or it equivalent for other tobacco products.

(6) EXPORTER.—The term "exporter" means any person engaged in the business of exporting tobacco products from the United States for purposes of sale or distribution; and the term "licensed exporter" means any such person licensed under the provisions of this subtitle. Any duty-free store that sells, offers for sale, or otherwise distributes to any person in any single transaction more than 30 packages of cigarettes, or its equivalent for other tobacco products as the Secretary shall by regulation prescribe, shall be deemed an "exporter" under this subtitle.

(7) IMPORTER.—The term "importer" means any person engaged in the business of importing tobacco products into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this subtitle.

(8) INTENTIONALLY.—The term "intentionally" means doing an act, or omitting to do an act, deliberately, and not due to accident, inadvertence, or mistake. An intentional act does not require that a person knew that his act constituted an offense.

(9) MANUFACTURER.— The term "manufacturer" means any person engaged in the business of manufacturing a tobacco product for purposes of sale or distribution, except that such term shall not include a person who manufactures less than 30,000 cigarettes, or its equivalent as determined by regulations, in any twelve month period; and the term "licensed manufacturer" means any such person licensed under the provisions of this subtitle, except that such term shall not include a person who produces cigars, cigarettes, smokeless tobacco, or pipe tobacco solely for his own personal consumption or use.

(10) WHOLESALER.—The term "wholesaler" means any person engaged in the business of purchasing tobacco products for resale at wholesale, or any person acting as an agent or broker for any person engaged in the business of purchasing tobacco products for resale at wholesale, and the term "licensed wholesaler" means any such person licensed under the provisions of this subtitle.

SEC. 1132. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) IN GENERAL.—It is unlawful for any person to sell, or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from Customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) LABELING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require each manufacturer or importer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured or imported for sale or distribution. The serial number shall be designed to enable the Secretary to identify the manufacturer or importer of the product, and the location and date of manufacture or importation. The Secretary shall determine the size and location of the serial number.

(2) MARKING REQUIREMENTS FOR EXPORTS.—Each package of a tobacco product that is exported shall be marked for export from the United States. The Secretary shall promulgate regulations to determine the size and location of the mark and under what circumstances a waiver of this paragraph shall be granted.

(c) PROHIBITION ON ALTERATION.—It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. 1133. TOBACCO PRODUCT LICENSES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program under which tobacco product licenses are issued to manufacturers, importers, exporters, and wholesalers of tobacco products.

(b)(1) ELIGIBILITY.—A person is entitled to a license unless the Secretary finds—

(A) that such person has been previously convicted of a Federal crime relating to tobacco, including the taxation thereof;

(B) that such person has, within 5 years prior to the date of application, been previously convicted of any felony under Federal or State law; or

(C) that such person is, by virtue of his business experience, financial standing, or trade connections, not likely to maintain such operations in conformity with Federal law.

(2) CONDITIONS.—The issuance of a license under this section shall be conditioned upon the compliance with the requirements of this subtitle, all Federal laws relating to the taxation of tobacco products, chapter 114 of title 18, United States Code, and any regulations issued pursuant to such statutes.

(c) REVOCATION, SUSPENSION, AND ANNULMENT.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a license issued under this section if the Secretary determines that the terms or conditions of the license have not been complied with. Prior to any action under this subsection, the Secretary shall provide the licensee with due notice and the opportunity for a hearing.

(d) RECORDS AND AUDITS.—The Secretary shall, under the program established under subsection (a), require all license holders to keep records concerning the chain of custody of the tobacco products that are the subject of the license and make such records available to the Secretary for inspection and audit.

(e) RETAILERS.—This section does not apply to retailers of tobacco products, except that retailers shall maintain records of receipt, and such records shall be available to the Secretary for inspection and audit. An ordinary commercial record or invoice will satisfy this requirement provided such record shows the date of receipt, from whom such products were received and the quantity of tobacco products received.

SEC. 1134. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of importing tobacco products into the United States; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged, or warehoused.

(c) WHOLESALE.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or, as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EXPORTATION.—

(1) IN GENERAL.—It is unlawful, except pursuant to a license issued by the Secretary under this subtitle—

(A) to engage in the business of exporting tobacco products from the United States; or

(B) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products received for export.

(2) REPORT.—Prior to exportation of tobacco products from the United States, the exporter shall submit a report in such manner and form as the Secretary may by regulation prescribe to enable the Secretary to identify the shipment and assure that it reaches its intended destination.

(3) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The Secretary is authorized to enter into agreements with foreign governments to exchange or share information contained in reports received from exporters of tobacco products if the Secretary believes that such an agreement will assist in—

(A) insuring compliance with any law or regulation enforced or administered by an agency of the United States; or

(B) preventing or detecting violation of the laws or regulations of a foreign government with which the Secretary has entered into an agreement.

Such information may be exchanged or shared with a foreign government only if the Secretary obtains assurances from such government that the information will be held in confidence and used only for the purpose of preventing or detecting violations of the laws or regulations of such government or the United States and, provided further that no information may be exchanged or shared with any government that has violated such assurances.

(e) UNLAWFUL ACTS.—

(1) UNLICENSED RECEIPT OR DELIVERY.—It is unlawful for any licensed importer, licensed manufacturer, or licensed wholesaler intentionally to ship, transport, deliver or receive any tobacco products from or to any person other than a person licensed under this chapter or a retailer licensed under the provisions of this Act, except a licensed importer may receive foreign tobacco products from a foreign manufacturer or a foreign distributor that have not previously entered the United States.

(2) RECEIPT OF RE-IMPORTED GOODS.—It is unlawful for any person, except a licensed manufacturer or a licensed exporter to receive any tobacco products that have previously been exported and returned to the United States.

(3) DELIVERY BY EXPORTER.—It is unlawful for any licensed exporter intentionally to ship, transport, sell or deliver for sale any

tobacco products to any person other than a licensed manufacturer or foreign purchaser.

(4) SHIPMENT OF EXPORT-ONLY GOODS.—It is unlawful for any person other than a licensed exporter intentionally to ship, transport, receive or possess, for purposes of resale, any tobacco product in packages marked "FOR EXPORT FROM THE UNITED STATES," other than for direct return to the manufacturer or exporter for re-packing or for re-exportation.

(5) FALSE STATEMENTS.—It is unlawful for any licensed manufacturer, licensed exporter, licensed importer, or licensed wholesaler to make intentionally any false entry in, to fail willfully to make appropriate entry in, or to fail willfully to maintain properly any record or report that he is required to keep as required by this chapter or the regulations promulgated thereunder.

(f) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 365 days after the date of enactment of this Act.

SEC. 1135. LABELING OF PRODUCTS SOLD BY NATIVE AMERICANS.

The Secretary, in consultation with the Secretary of the Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. 1136. LIMITATION ON ACTIVITIES INVOLVING TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.

(a) MANUFACTURE OF TOBACCO PRODUCTS IN FOREIGN TRADE ZONES.—No person shall manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

(b) EXPORTING OR IMPORTING FROM OR INTO A FOREIGN TRADE ZONE.—Any person exporting or importing tobacco products from or into a foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.), shall comply with the requirements provided in this subtitle. In any case where the person operating in a foreign trade zone is acting on behalf of a person licensed under this subtitle, qualification as an importer or exporter will not be required, if such person complies with the requirements set forth in section 1134(d)(2) and (3) of this subtitle.

SEC. 1137. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States Court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall, upon conviction, be fined as provided in section 3571 of title 18, United States Code, imprisoned for not more than 5 years, or both.

(c) CIVIL PENALTIES.—The Secretary may, in lieu of referring violations of this subtitle for criminal prosecution, impose a civil penalty of not more than $10,000 for each offense.

(d) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

(e) FORFEITURE.—

(1) The Secretary may seize and forfeit any conveyance, tobacco products, or monetary instrument (as defined in section 5312 of title 31, United States Code) involved in a violation of this subtitle, or any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of this chapter. For purposes of this paragraph, the provisions of subsections (a)(2), (b)(2), and (c) through (j) of section 981 of title 18, United States Code, apply to seizures and forfeitures under this paragraph insofar as they are applicable and not inconsistent with the provisions of this subtitle.

(2) The court, in imposing sentence upon a person convicted of an offense under this subtitle, shall order that the person forfeit to the United States any property described in paragraph (1). The seizure and forfeiture of such property shall be governed by subsections (b), (c), and (e) through (p) of section 853 of title 21, United States Code, insofar as they are applicable and not inconsistent with the provisions of this subtitle.

SEC. 1138. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) by striking "60,000" and inserting "30,000" in paragraph (2);

(2) by inserting after "payment of cigarette taxes," in paragraph (2) the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,";

(3) by striking "and" at the end of paragraph (4);

(4) by striking "Treasury." in paragraph (5) and inserting "Treasury;"; and

(5) by adding at the end thereof the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, roll your own and pipe tobacco (as such terms are defined in section 5701 of the Internal Revenue Code of 1986); and

"(7) the term 'contraband tobacco product' means—

"(A) a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products; and

"(B) a quantity of tobacco product that is equivalent to an excess of 30,000 cigarettes, as determined by regulation, which bears no evidence of the payment of applicable State tobacco taxes in the State where such tobacco products are found, if such State requires a stamp, impression, or other indication to be placed on packages or other containers of product to evidence payment of tobacco taxes, or in the case of a State that does not require any such indication of tax payment, if the person in possession of the tobacco product is unable to provide any evidence that the tobacco products are moving legally in interstate commerce and which are in the possession of any person other than a person defined in paragraph (2) of this section.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) by inserting "or contraband tobacco products" before the period in subsection (a); and

(2) by adding at the end thereof the following:

"(c) It is unlawful for any person—

"(1) knowingly to make any false statement or representation with respect to the information required by this chapter to be kept in the records or reports of any person who ships, sells, or distributes any quantity of cigarettes in excess of 30,000 in a single transaction, or tobacco products in such equivalent quantities as shall be determined by regulation; or

"(2) knowingly to fail or knowingly to fail to maintain distribution records or reports, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of cigarettes or other tobacco products.

"(d) It shall be unlawful for any person knowingly to transport cigarettes or other tobacco products under a false bill of lading or without any bill of lading.".

(c) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "60,000" in subsection (a) and inserting "30,000";

(2) by inserting after "transaction" in subsection (a) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,";

(3) by striking the last sentence of subsection (a) and inserting the following:

"Except as provided in subsection (c) of this section, nothing contained herein shall authorize the Secretary to require reporting under this section.";

(4) by striking "60,000" in subsection (b) and inserting "30,000";

(5) by inserting after "transaction" in subsection (b) the following: "or, in the case of other tobacco products an equivalent quantity as determined by regulation,"; and

(6) by adding at the end thereof the following:

"(c)(1) Any person who ships, sells, or distributes for resale tobacco products in interstate commerce, whereby such tobacco products are shipped into a State taxing the sale or use of such tobacco products or who advertises or offers tobacco products for such sale or transfer and shipment shall—

"(A) first file with the tobacco tax administrator of the State into which such shipment is made or in which such advertisement or offer is disseminated, a statement setting for the person's name, and trade name (if any), and the address of the person's principal place of business and of any other place of business; and

"(B) not later than the 10th day of each month, file with the tobacco tax administrator of the State into which such shipment is made a memorandum or a copy of the invoice covering each and every shipment of tobacco products made during the previous month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, and the quantity thereof.

"(2) The fact that any person ships or delivers for shipment any tobacco products shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under paragraph (1)(A) of this subsection, be presumptive evidence that such tobacco products

were sold, shipped, or distributed for resale by such person.

"(3) For purposes of this subsection—

"(A) the term 'use' includes consumption, storage, handling, or disposal of tobacco products; and

"(B) the term 'tobacco tax administrator' means the State official authorized to administer tobacco tax laws of the State.".

(e) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) by inserting "or (c)" in subsection (b) after "section 2344(b)";

(2) by inserting "or contraband tobacco products" after "cigarettes" in subsection (c); and

(3) by adding at the end thereof the following:

"(d) Any proceeds from the unlawful distribution of tobacco shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

(f) REPEAL OF FEDERAL LAW RELATING TO COLLECTION OF STATE CIGARETTE TAXES.—The Act of October 19, 1949 (63 Stat. 884; 15 U.S.C. 375-378) is hereby repealed.

SEC. 1139. FUNDING.

(a) LICENSE FEES.—The Secretary may, in the Secretary's sole discretion, set the fees for licenses required by this chapter, in such amounts as are necessary to recover the costs of administering the provisions of this chapter, including preventing trafficking in contraband tobacco products.

(b) DISPOSITION OF FEES.—Fees collected by the Secretary under this chapter shall be deposited in an account with the Treasury of the United States that is specially designated for paying the costs associated with the administration or enforcement of this chapter or any other Federal law relating to the unlawful trafficking of tobacco products. The Secretary is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in administering and enforcing this chapter or any other Federal law relating to the unlawful trafficking in tobacco products (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.

SEC. 1140. RULES AND REGULATIONS.

The Secretary shall prescribe all needful rules and regulations for the enforcement of this chapter, including all rules and regulations that are necessary to ensure the lawful distribution of tobacco products in interstate or foreign commerce.

Subtitle C—Other Provisions

SEC. 1161. IMPROVING CHILD CARE AND EARLY CHILDHOOD DEVELOPMENT.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary from the National Tobacco Trust Fund such sums as may be necessary for each fiscal year to be used by the Secretary for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9859 et seq.) for the purpose of improving parent education and supportive services, strengthening the quality of child care, improving health services, and improving services for children with disabilities.

(b) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a State under this section shall be used to supplement and not supplant other Federal, State, and local funds provided for programs that serve the health and developmental needs of children. Amounts provided to the State under any of the provisions of law referred to in this section shall not be reduced solely as a result of the availability of funds under this section.

SEC. 1162. BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.

(a) BAN OF SALE OF TOBACCO PRODUCTS THROUGH THE USE OF VENDING MACHINES.—Effective 12 months after the date of enactment of this Act, it shall be unlawful to sell tobacco products through the use of a vending machine.

(b) COMPENSATION FOR BANNED VENDING MACHINES.—

(1) IN GENERAL.—The owners and operators of tobacco vending machines shall be reimbursed, subject to the availability of appropriations under subsection (d), for the fair market value of their tobacco vending machines.

(2) TOBACCO VENDING REIMBURSEMENT CORPORATION.—

(A) CORPORATION.—Reimbursement shall be directed through a private, nonprofit corporation established in the District of Columbia, known as the Tobacco Vending Reimbursement Corporation (in this section referred to as the "Corporation"). Except as otherwise provided in this section, the Corporation is subject to, and has all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(B) DUTIES.—The Corporation shall—

(i) disburse compensation funds to vending companies under this section;

(ii) verify operational machines; and

(iii) maintain complete records of machine verification and accountings of disbursements and administration of the compensation fund established under paragraph (4).

(3) MANAGEMENT OF CORPORATION.—

(A) BOARD OF DIRECTORS.—The Corporation shall be managed by a Board of Directors that—

(i) consists of distinguished Americans with experience in finance, public policy, or fund management;

(ii) includes at least 1 member of the United States tobacco vending machine industry;

(iii) shall be paid an annual salary in an amount determined by the President of the Corporation not to exceed $40,000 individually, out of amounts transferred to the Corporation under paragraph (4)(A);

(iv) shall appoint a President to manage the day-to-day activities of the Corporation;

(v) shall develop guidelines by which the President shall direct the Corporation;

(vi) shall retain a national accounting firm to verify the distribution of funds and audit the compensation fund established under paragraph (4);

(vii) shall retain such legal, management, or consulting assistance as is necessary and reasonable; and

(viii) shall periodically report to Congress regarding the activities of the Corporation.

(B) DUTIES OF THE PRESIDENT OF THE CORPORATION.—The President of the Corporation shall—

(i) hire appropriate staff;

(ii) prepare the report of the Board of Directors of the Corporation required under subparagraph (A)(viii); and

(iii) oversee Corporation functions, including verification of machines, administration and disbursement of funds, maintenance of complete records, operation of appeals procedures, and other directed functions.

(4) COMPENSATION FUND.—

(A) RULES FOR DISBURSEMENT OF FUNDS.—

(i) PAYMENTS TO OWNERS AND OPERATORS.—The Corporation shall disburse funds to compensate the owners and operators of tobacco vending machines in accordance with the following:

(I) The fair market value of each tobacco vending machine verified by the Corporation President in accordance with subparagraph (C), and proven to have been in operation before August 10, 1995, shall be disbursed to the owner of the machine seeking compensation.

(II) No compensation shall be made for a spiral glass front vending machine.

(ii) OTHER PAYMENTS.—Funds appropriated to the Corporation under subsection (d) may be used to pay the administrative costs of the Corporation that are necessary and proper or required by law. The total amount paid by the Corporation for administrative and overhead costs, including accounting fees, legal fees, consultant fees, and associated administrative costs shall not exceed 1 percent of the total amount appropriated to the Corporation under subsection (d).

(B) VERIFICATION OF VENDING MACHINES.—Verification of vending machines shall be based on copies of official State vending licenses, company computerized or handwritten sales records, or physical inspection by the Corporation President or by an inspection agent designated by the President. The Corporation President and the Board of Directors of the Corporation shall work vigorously to prevent and prosecute any fraudulent claims submitted for compensation.

(C) RETURN OF ACCOUNT FUNDS NOT DISTRIBUTED TO VENDORS.—The Corporation shall be dissolved on the date that is 4 years after the date of enactment of this Act. Any funds not dispersed or allocated to claims pending as of that date shall be transferred to a public anti-smoking trust, or used for such other purposes as Congress may designate.

(c) SETTLEMENT OF LEGAL CLAIMS PENDING AGAINST THE UNITED STATES.—Acceptance of a compensation payment from the Corporation by a vending machine owner or operator shall settle all pending and future claims of the owner or operator against the United States that are based on, or related to, the ban of the use of tobacco vending machines imposed under this section and any other laws or regulations that limit the use of tobacco vending machines.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Corporation from funds not otherwise obligated in the Treasury or out of the National Tobacco Trust Fund, such sums as may be necessary to carry out this section.

SEC. 1163. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C.

1185 et seq.) is amended by adding at the end the following new section:

"SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

"(a) INPATIENT CARE.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the surgical treatment of breast cancer (including a mastectomy, lumpectomy, or lymph node dissection for the treatment of breast cancer) is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, and subject to subsection (d), to be medically appropriate.

"(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician in consultation with the patient determine that a shorter period of hospital stay is medically appropriate.

"(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

"(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

"(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

"(3) the costs of prostheses and complications of mastectomy including lymphedemas;

in the manner determined by the attending physician and the patient to be appropriate. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

"(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

"(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

"(2) as part of any yearly informational packet sent to the participant or beneficiary; or

"(3) not later than January 1, 1998;

whichever is earlier.

"(d) NO AUTHORIZATION REQUIRED.—

"(1) IN GENERAL.—An attending physician shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

"(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

"(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

"(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; and

"(5) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(f) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section shall be construed to require a patient who is a participant or beneficiary—

"(A) to undergo a mastectomy or lymph node dissection in a hospital; or

"(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

"(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

"(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(g) PREEMPTION, RELATION TO STATE LAWS.—

"(1) IN GENERAL.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that—

"(A) such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection of breast cancer;

"(B) requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section; or

"(C) requires coverage for breast cancer treatments (including breast reconstruction) in accordance with scientific evidence-based practices or guidelines recommended by established medical associations.

"(2) APPLICATION OF SECTION.—With respect to a State law—

"(A) described in paragraph (1)(A), the provisions of this section relating to breast reconstruction shall apply in such State; and

"(B) described in paragraph (1)(B), the provisions of this section relating to length of stays for surgical breast treatment shall apply in such State.

"(3) ERISA.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for reconstructive surgery following mastectomies.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

TITLE XII—ASBESTOS-RELATED TOBACCO CLAIMS

SEC. 1201. NATIONAL TOBACCO TRUST FUNDS AVAILABLE UNDER FUTURE LEGISLATION.

If the Congress enacts qualifying legislation after the date of enactment of this Act to provide for the payment of asbestos claims, then amounts in the National Tobacco Trust Fund established by title IV of this Act set aside for public health expenditures shall be available, as provided by appropriation Acts, to make those payments. For purposes of this section, the term "qualifying legislation" means a public law that amends this Act and changes the suballocations of funds set aside for public health expenditures under title IV of this Act to provide for the payment of those claims.

TITLE XIII—VETERANS' BENEFITS

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

"PART VII—RECOVERY OF COSTS FOR TOBACCO-RELATED DISABILITY OR DEATH

"CHAPTER 91—TORT LIABILITY FOR DISABILITY, INJURY, DISEASE, OR DEATH DUE TO TOBACCO USE

"Sec.
"9101. Recovery by Secretary of Veterans Affairs
"9102. Regulations
"9103. Limitation or repeal of other provisions for recovery of compensation
"9104. Exemption from annual limitation on damages

"§ 9101. Recovery by Secretary of Veterans Affairs

"(a) CONDITIONS; EXCEPTIONS; PERSONS LIABLE; AMOUNT OF RECOVERY; SUBROGATION.—In any case in which the Secretary is authorized or required by law to provide compensation and medical care services under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service under circumstances creating a tort liability upon a tobacco product manufacturer (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover (independent of the rights of the injured or diseased veteran) from said tobacco product manufacturer the cost of the compensation paid or to be paid and the costs of medical care services provided, and shall, as to this right, be subrogated to any right or claim that the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors has against such third person to the extent of the cost of the compensation paid or to be paid and the costs of medical services provided.

"(b) ENFORCEMENT PROCEDURE; INTERVENTION; JOINDER OF PARTIES; STATE OR FEDERAL COURT PROCEEDINGS.—The Secretary may, to enforce such right under subsection (a) of this section—

"(1) intervene or join in any action or proceeding brought by the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors, against the tobacco product manufacturer who is liable for the injury or disease; or

"(2) if such action or proceeding is not commenced within 6 months after the first day on which compensation is paid, or the medical care services are provided, by the Secretary in connection with the injury or disease involved, institute and prosecute legal proceedings against the tobacco product manufacturer who is liable for the injury or disease, in a State or Federal court, either alone (in its own name or in the name of the injured veteran, his or her guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured or diseased veteran, his or her guardian, personal representative, estate, dependents, or survivors.

"(c) CREDITS TO APPROPRIATIONS.—Any amount recovered or collected under this section for compensation paid, and medical care services provided, by the Secretary shall be credited to a revolving fund established in the Treasury of the United States known as the Department of Veterans Affairs Tobacco Recovery Fund (hereafter called the Fund). The Fund shall be available to the Secretary without fiscal year limitation for purposes of veterans programs, including administrative costs. The Secretary may transfer such funds as deemed necessary to the various Department of Veterans Affairs appropriations, which shall remain available until expended.

"§ 9102. Regulations

"(a) DETERMINATION AND ESTABLISHMENT OF PRESENT VALUE OF COMPENSATION AND MEDICAL CARE SERVICES TO BE PAID.—The Secretary may prescribe regulations to carry out this chapter, including regulations with respect to the determination and establishment of the present value of compensation to be paid to an injured or diseased veteran or his or her surviving spouse, child, or parent, and medical care services provided to a veteran.

"(b) SETTLEMENT, RELEASE AND WAIVER OF CLAIMS.—To the extent prescribed by regulations under subsection (a) of this section, the Secretary may—

"(1) compromise, or settle and execute a release of, any claim which the Secretary has by virtue of the right established by section 9101 of this title; or

"(2) waive any such claim, in whole or in part, for the convenience of the Government, or if he or she determines that collection would result in undue hardship upon the veteran who suffered the injury or disease or his or her surviving spouse, child or parent resulting in payment of compensation, or receipt of medical care services.

"(c) DAMAGES RECOVERABLE FOR PERSONAL INJURY UNAFFECTED.—No action taken by the Secretary in connection with the rights afforded under this chapter shall operate to deny to the injured veteran or his or her surviving spouse, child or parent the recovery for that portion of his or her damage not covered hereunder.

"§ 9103. Limitation or repeal of other provisions for recovery of compensation and medical care services

"This chapter does not limit or repeal any other provision of law providing for recovery by the Secretary of the cost of compensation and medical care services described in section 9101 of this title.

"§ 9104. Exemption from annual limitation on damages

"Any amount recovered under section 9101 of this title for compensation paid or to be paid, and the cost of medical care services provided, by the Secretary for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service shall not be subject to the limitation on the annual amount of damages for which the tobacco product manufacturers may be found liable as provided in the National Tobacco Policy and Youth Smoking Reduction Act and shall not be counted in computing the annual amount of damages for purposes of that section.".

TITLE XIV—EXCHANGE OF BENEFITS FOR AGREEMENT TO TAKE ADDITIONAL MEASURES TO REDUCE YOUTH SMOKING

SEC. 1401. CONFERRAL OF BENEFITS ON PARTICIPATING TOBACCO PRODUCT MANUFACTURERS IN RETURN FOR THEIR ASSUMPTION OF SPECIFIC OBLIGATIONS.

Participating tobacco product manufacturers shall receive the benefits, and assume the obligations, set forth in this title.

SEC. 1402. PARTICIPATING TOBACCO PRODUCT MANUFACTURER.

(a) IN GENERAL.—Except as provided in subsection (b), a tobacco product manufacturer that—

(1) executes a protocol with the Secretary of Health and Human Services that meets the requirements of sections 1403, 1404, and 1405; and

(2) makes the payment required under section 402(a)(1),

is, for purposes of this title, a participating tobacco products manufacturer.

(b) DISQUALIFICATION.—

(1) INELIGIBILITY.—Notwithstanding subsection (a), a tobacco product manufacturer may not become a participating tobacco products manufacturer if—

(A) the tobacco product manufacturer or any of its principal officers (acting in that official's corporate capacity), is convicted of—

(i) manufacturing or distributing misbranded tobacco products in violation of the criminal prohibitions on such misbranding established under section 301 or 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 or 333);

(ii) violating reporting requirements established under section 5762(a)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 5762(a)(4));

(iii) violating, or aiding and abetting the violation of chapter 114 of title 18, United States Code; or

(iv) violating Federal prohibitions on mail fraud, wire fraud, or the making of false statements to Federal officials in the course of making reports or disclosures required by this Act; or

(B) the tobacco product manufacturer, at the end of the 1-year period beginning on the date on which such manufacturer fails to make a required assessment payment under title IV of this Act, has not fully made such payment.

(2) DISQUALIFICATION.—A tobacco product manufacturer that has become a participating tobacco product manufacturer shall cease to be treated as a participating tobacco product manufacturer if—

(A) it, or any of its principal officers (acting in that official's corporate capacity) is convicted of an offense described in paragraph (1)(A); or

(B) it fails to make such a payment within the time period described in paragraph (1)(B).

(c) NON-PARTICIPATING TOBACCO MANUFACTURERS.—Any tobacco product manufacturer that—

(1) does not execute a protocol in accordance with subsection (a);

(2) fails to make the payment required by section 402(a)(1) (if applicable to that manufacturer);

(3) is not eligible, under subsection (b)(1), to become a participating tobacco product manufacturer; or

(4) ceases to be treated as a participating tobacco product manufacturer under subsection (b)(2),

is, for purposes of this title, a non-participating tobacco product manufacturer.

SEC. 1403. GENERAL PROVISIONS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it—

(1) contains the provisions described in subsection (b); and

(2) is enforceable at law.

(b) REQUIRED PROVISIONS.—The protocol shall include the following provisions:

(1) The tobacco product manufacturer executing the protocol will not engage in any

conduct that was, either on the date of enactment of this Act, or at any time after the date of enactment of this Act—

(A) prohibited by this Act;

(B) prohibited by any regulation promulgated by the Food and Drug Administration that applies to tobacco products; or

(C) prohibited by any other statute.

(2) The tobacco product manufacturer executing the protocol will contract with only such distributors and retailers who have operated in compliance with the applicable provisions of Federal, State, or local law regarding the marketing and sale of tobacco products and who agree to comply with advertising and marketing provisions in paragraph (3).

(3) The tobacco product manufacturer executing the protocol will be bound in marketing tobacco products by the following provisions, whether or not these provisions have legal force and effect against manufacturers who are not signatories to the protocol—

(A) the advertising and marketing provisions of part 897 of title 21, Code of Federal Regulations, that were published in the Federal Register on August 28, 1996, and which shall be adopted and incorporated as independent terms of the protocol;

(B) the requirements of section 1404; and

(C) the requirements of section 1405.

(4) The tobacco product manufacturer executing the protocol will make any payments to the National Tobacco Trust Fund in title IV that are required to be made under that title or in any other title of this Act.

(5) The tobacco product manufacturer executing the protocol will be bound by the provisions of title IV, and any other title of this Act with respect to payments required under title IV, without regard to whether those provisions have legal force and effect against manufacturers who have not become signatories.

(6) The tobacco product manufacturer executing the protocol will make the industry-wide and manufacturer-specific look-back assessment payments that may be required under title II.

(7) The tobacco product manufacturer executing the protocol will be bound by the provisions of title II that require a manufacturer to make look-back assessments, and any other title of this Act with respect to such assessments, without regard to whether such terms have legal force and effect against manufacturers who have not become signatories.

(8) The tobacco product manufacturer executing the protocol will, within 180 days after the date of enactment of this Act and in conjunction with other participating tobacco product manufacturers, establish a National Tobacco Document Depository in the Washington, D.C. area—

(A) that is not affiliated with, or controlled by, any tobacco product manufacturer;

(B) the establishment and operational costs of which are allocated among participating tobacco product manufacturers; and

(C) that will make any document submitted to it under title IX of this Act and finally determined not to be subject to attorney-client privilege, attorney work product, or trade secret exclusions, available to the public using the Internet or other means within 30 days after receiving the document.

(c) PROVISIONS APPLICABLE TO DOCUMENTS.—The provisions of section 2116(a) and (b) of title 44, United States Code, apply to records and documents submitted to the Depository (or, to the alternative depository, if any, established by the Secretary by regulation under title IX of this Act) in the same manner and to the same extent as if they were records submitted to the National Archives of the United States required by statute to be retained indefinitely.

SEC. 1404. TOBACCO PRODUCT LABELING AND ADVERTISING REQUIREMENTS OF PROTOCOL.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it requires that—

(1) no tobacco product will be sold or distributed in the United States unless its advertising and labeling (including the package)—

(A) contain no human image, animal image, or cartoon character;

(B) are not outdoor advertising, including advertising in enclosed stadia and on mass transit vehicles, and advertising from within a retail establishment that is directed toward or visible from the outside of the establishment;

(C) at the time the advertising or labeling is first used are submitted to the Secretary so that the Secretary may conduct regular review of the advertising and labeling;

(D) comply with any applicable requirement of the Federal Food, Drug, and Cosmetic Act, the Federal Cigarette Labeling and Advertising Act, and any regulation promulgated under either of those Acts;

(E) do not appear on the international computer network of both Federal and non-Federal interoperable packet switches data networks (the "Internet"), unless such advertising is designed to be inaccessible in or from the United States to all individuals under the age of 18 years;

(F) use only black text on white background, other than—

(i) those locations other than retail stores where no person under the age of 18 is permitted or present at any time, if the advertising is not visible from outside the establishment and is affixed to a wall or fixture in the establishment; and

(ii) advertisements appearing in any publication which the tobacco product manufacturer, distributor, or retailer demonstrates to the Secretary is a newspaper, magazine, periodical, or other publication whose readers under the age of 18 years constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence, and that is read by less than 2 million persons under the age of 18 years as measured by competent and reliable survey evidence;

(G) for video formats, use only static black text on a white background, and any accompanying audio uses only words without music or sound effects;

(H) for audio formats, use only words without music or sound effects;

(2) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of brand-name product identification of the tobacco product is contained in a movie, program, or video game for which a direct or indirect payment has been made to ensure its placement;

(3) if a direct or indirect payment has been made by any tobacco product manufacturer, distributor, or retailer to any entity for the purpose of promoting use of the tobacco product through print or film media that appeals to individuals under the age of 18 years or through a live performance by an entertainment artist that appeals to such individuals;

(4) if a logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical to, similar to, or identifiable with the tobacco product is used for any item (other than a tobacco product) or service marketed, licensed, distributed or sold or caused to be marketed, licensed, distributed, or sold by the tobacco product manufacturer or distributor of the tobacco product; and

(5)(A) except as provided in subparagraph (B), if advertising or labeling for such product that is otherwise in accordance with the requirements of this section bears a tobacco product brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification and is disseminated in a medium other than newspapers, magazines, periodicals or other publications (whether periodic or limited distribution), nonpoint-of-sale promotional material (including direct mail), point-of-sale promotional material, or audio or video formats delivered at a point-of-sale; but

(B) notwithstanding subparagraph (A), advertising or labeling for cigarettes or smokeless tobacco may be disseminated in a medium that is not specified in paragraph (1) if the tobacco product manufacturer, distributor, or retailer notifies the Secretary not later than 30 days prior to the use of such medium, and the notice describes the medium and the extent to which the advertising or labeling may be seen by persons under the age of 18 years.

(b) COLOR PRINT ADS ON MAGAZINES.—The protocol shall also provide that no tobacco product may be sold or distributed in the United States if any advertising for that product on the outside back cover of a magazine appears in any color or combination of colors.

SEC. 1405. POINT-OF-SALE REQUIREMENTS.

(a) IN GENERAL.—For purposes of section 1402, a protocol meets the requirements of this section if it provides that, except as provided in subsection (b), point-of-sale advertising of any tobacco product in any retail establishment is prohibited.

(b) PERMITTED POS LOCATIONS.—

(1) PLACEMENT.—One point-of-sale advertisement may be placed in or at each retail establishment for its brand or the contracted house retailer or private label brand of its wholesaler.

(2) SIZE.—The display area of any such point-of-sale advertisement (either individually or in the aggregate) shall not be larger than 576 square inches and shall consist of black letters on white background or another recognized typography.

(3) PROXIMITY TO CANDY.—Any such point-of-sale advertisement shall not be attached to or located within 2 feet of any display fixture on which candy is displayed for sale.

(c) AUDIO OR VIDEO.—Any audio or video format permitted under regulations promulgated by the Secretary may be played or shown in, but not distributed, at any location where tobacco products are offered for sale.

(d) NO RESTRICTIVE COVENANTS.—No tobacco product manufacturer or distributor of tobacco products may enter into any arrangement with a retailer that limits the retailer's ability to display any form of advertising or promotional material originating with another supplier and permitted by law to be displayed in a retail establishment.

(e) DEFINITIONS.—As used in this section, the terms "point-of-sale advertisement" and "point-of-sale advertising" mean all printed or graphical materials (other than a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco is offered for sale, sold, or otherwise distributed

to consumers) bearing the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco, which, when used for its intended purpose, can reasonably be anticipated to be seen by customers at a location where tobacco products are offered for sale.

SEC. 1406. APPLICATION OF TITLE.

(a) IN GENERAL.—The provisions of this title apply to any civil action involving a tobacco claim brought pursuant to title VII of this Act, including any such claim that has not reached final judgment or final settlement as of the date of enactment of this Act, only if such claim is brought or maintained against—

(1) a participating tobacco product manufacturer or its predecessors;

(2) an importer, distributor, wholesaler, or retailer of tobacco products—

(A) that, after the date of enactment of this Act, does not import, distribute, or sell tobacco products made or sold by a non-participating tobacco manufacturer;

(B) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(C) that is not itself a non-participating tobacco product manufacturer;

(3) a supplier of component or constituent parts of tobacco products—

(A) whose business practices with respect to sales or operations occurring within the United States, conform to the applicable requirements of the protocol; and

(B) that is not itself a non-participating tobacco product manufacturer;

(4) a grower of tobacco products, unless such person is itself a non-participating tobacco product manufacturer; or

(5) an insurer of any person described in paragraph (1), (2), (3), or (4) based on, arising out of, or related to tobacco products manufactured, imported, distributed, or sold (or tobacco grown) by such person (other than an action brought by the insured person), unless such insurer is itself a non-participating tobacco product manufacturer.

(b) EXCEPTIONS.—The provisions of this title shall not apply to any tobacco claim—

(1) brought against any person other than those described in subsection (a) or to any tobacco claim that reached final judgment or final settlement prior to the date of enactment of this Act;

(2) against an employer under valid workers' compensation laws;

(3) arising under the securities laws of a State or the United State;

(4) brought by the United States;

(5) brought under this title by a State or a participating tobacco product manufacturer to enforce this Act;

(6) asserting damage to the environment from exposures other than environmental smoke or second-hand smoke; or

(7) brought against a supplier of a component or constituent part of a tobacco product, if the component or constituent part was sold after the date of enactment of this Act, and the supplier knew that the tobacco product giving rise to the claim would be manufactured in the United States by a non-participating tobacco product manufacturer.

SEC. 1407. GOVERNMENTAL CLAIMS.

(a) IN GENERAL.—Except as provided in subsection (b) and (c), no State, political subdivision of a State, municipal corporation, governmental entity or corporation, Indian tribe, or agency or subdivision thereof, or other entity acting in *parens patriae*, may file or maintain any civil action involving a tobacco claim against a participating tobacco product manufacturer.

(b) EFFECT ON EXISTING STATE SUITS OF SETTLEMENT AGREEMENT OR CONSENT DECREE.—Within 30 days after the date of enactment of this Act, any State that has filed a civil action involving a tobacco claim against a participating tobacco product manufacturer may elect to settle such action against said tobacco product manufacturer. If a State makes such an election to enter into a settlement or a consent decree, it may maintain a civil action involving a tobacco claim only to the extent necessary to permit continuing court jurisdiction over the settlement or consent decree. Nothing herein shall preclude any State from bringing suit or seeking a court order to enforce the terms of such settlement or decree.

(c) STATE OPTION FOR ONE-TIME OPT OUT.—Any State that does not make the election described in subsection (b) may continue its lawsuit, notwithstanding subsection (a) of this section. A State that does not make such an election shall not be eligible to receive payments from the trust fund in title IV.

(d) 30-DAY DELAY.—No settlement or consent decree entered into under subsection (b) may take effect until 30 days after the date of enactment of this Act.

(f) PRESERVATION OF INSURANCE CLAIMS.—

(1) IN GENERAL.—If all participating tobacco product manufacturers fail to make the payments required by title IV for any calendar year, then—

(A) beginning on the first day of the next calendar year, subsection (a) does not apply to any insurance claim (including a direct action claim) that is a tobacco claim, regardless of when that claim arose;

(B) any statute of limitations or doctrine of laches under applicable law shall be tolled for the period—

(i) beginning on the date of enactment of this Act; and

(ii) ending on the last day of that calendar year; and

(C) an insurance claim (including a direct action claim) that is a tobacco claim and that is pending on the date of enactment of this Act shall be preserved.

(2) APPLICATION OF TITLE 11, UNITED STATES CODE.—For purposes of this subsection, nothing in this Act shall be construed to modify, suspend, or otherwise affect the application of title 11, United States Code, to participating tobacco manufacturers that fail to make such payments.

(3) STATE LAW NOT AFFECTED.—Nothing in this subsection shall be construed to expand or abridge State law.

SEC. 1408. ADDICTION AND DEPENDENCY CLAIMS; CASTANO CIVIL ACTIONS.

(a) ADDICTION AND DEPENDENCE CLAIMS BARRED.—In any civil action to which this title applies, no addiction claim or dependence claim may be filed or maintained against a participating tobacco product manufacturer.

(b) CASTANO CIVIL ACTIONS.—

(1) The rights and benefits afforded in this Act, and the various research activities envisioned by this Act, are provided in settlement of, and shall constitute the exclusive remedy for the purpose of determining civil liability as to those claims asserted in the Castano Civil Actions, and all bases for any such claim under the laws of any State are preempted (including State substantive, procedural, remedial, and evidentiary provisions) and settled. The Castano Civil Actions shall be dismissed with full reservation of the rights of individual class members to pursue claims not based on addiction or dependency in civil actions, as defined in section 1417(2), in accordance with this Act. For purposes of determining application of statutes of limitation or repose, individual actions filed within one year after the effective date of this Act by those who were included within a Castano Civil Action shall be considered to have been filed as of the date of the Castano Civil Action applicable to said individual.

(2) For purposes of awarding attorneys fees and expenses for those actions subject to this subsection, the matter at issue shall be submitted to arbitration before one panel of arbitrators. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the attorneys of the Castano Plaintiffs' Litigation Committee who were signatories to the Memorandum of Understanding dated June 20, 1997, by and between tobacco product manufacturers, the Attorneys General, and private attorneys, one of whom shall be chosen by the participating tobacco product manufacturers, and one of whom shall be chosen jointly by those 2 arbitrators.

(3) The participating tobacco product manufacturers shall pay the arbitration award.

SEC. 1409. SUBSTANTIAL NON-ATTAINMENT OF REQUIRED REDUCTIONS.

(a) ACTION BY SECRETARY.—If the Secretary determines under title II that the non-attainment percentage for any year is greater than 20 percentage points for cigarettes or smokeless tobacco, then the Secretary shall determine, on a brand-by-brand basis, using data that reflects a 1999 baseline, which tobacco product manufacturers are responsible within the 2 categories of tobacco products for the excess. The Secretary may commence an action under this section against the tobacco product manufacturer or manufacturers of the brand or brands of cigarettes or smokeless tobacco products for which the non-attainment percentage exceeded 20 percentage points.

(b) PROCEDURES.—Any action under this section shall be commenced by the Secretary in the United States District Court for the District of Columbia within 90 days after publication in the Federal Register of the determination that the non-attainment percentage for the tobacco product in question is greater than 20 percentage points. Any such action shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code.

(c) DETERMINATION BY COURT.—In any action under this section, the court shall determine whether a tobacco product manufacturer has shown, by a preponderance of the evidence that it—

(1) has complied substantially with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, or of any Federal or State laws regarding underage tobacco use;

(2) has not taken any material action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(3) has used its best efforts to reduce underage tobacco use to a degree at least equal to the required percentage reductions.

(d) REMOVAL OF ANNUAL AGGREGATE PAYMENT LIMITATION.—Except as provided in subsections (e) and (g), if the court determines that a tobacco product manufacturer has failed to make the showing described in subsection (c) then sections 1411 and 1412 of this Act do not apply to the enforcement

against, or the payment by, such tobacco product manufacturer of any judgment or settlement that becomes final after that determination is made.

(e) DEFENSE.—An action under this section shall be dismissed, and subsection (d) shall not apply, if the court finds that the Secretary's determination under subsection (a) was unlawful under subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code. Any judgments paid under section 1412 of this Act prior to a final judgment determining that the Secretary's determination was erroneous shall be fully credited, with interest, under section 1412 of this Act.

(f) REVIEW.—Decisions of the court under this section are reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party. The applicability of subsection (d) shall be stayed during the pendency of any such petition or review.

(g) CONTINUING EFFECT.—Subsection (d) shall cease to apply to a tobacco product manufacturer found to have engaged in conduct described in subsection (c) upon the later of—

(1) a determination by the Secretary under section 201 after the commencement of action under subsection (a) that the non-attainment percentage for the tobacco product in question is 20 or fewer percentage points; or

(2) a finding by the court in an action filed against the Secretary by the manufacturer, not earlier than 2 years after the determination described in subsection (c) becomes final, that the manufacturer has shown by a preponderance of the evidence that, in the period since that determination, the manufacturer—

(A) has complied with the provisions of this Act regarding underage tobacco use, of any rules or regulations promulgated thereunder, and of any other applicable Federal, State, or local laws, rules, or regulations;

(B) has not taken any action to undermine the achievement of the required percentage reduction for the tobacco product in question; and

(C) has used its best efforts to attain the required percentage reduction for the tobacco product in question.

A judgment or settlement against the tobacco product manufacturer that becomes final after a determination or finding described in paragraph (1) or (2) of this subsection is not subject to subsection (d). An action under paragraph (2) of this subsection shall be commenced in the United States District Court for the District of Columbia, and shall be heard and determined by a 3-judge court under section 2284 of title 28, United States Code. A decision by the court under paragraph (2) of this subsection is reviewable only by the Supreme Court by writ of certiorari granted upon the petition of any party, and the decision shall be stayed during the pendency of the petition or review. A determination or finding described in paragraph (1) or (2) of this subsection does not limit the Secretary's authority to bring a subsequent action under this section against any tobacco product manufacturer or the applicability of subsection (d) with respect to any such subsequent action.

SEC. 1410. PUBLIC HEALTH EMERGENCY.

If the Secretary, in consultation with the Commissioner of Food and Drugs, the Surgeon General, the Director of the Center for Disease Control or the Director's delegate, and the Director of the Health and Human Services Office of Minority Health determines at any time that a tobacco product manufacturer's actions or inactions with respect to its compliance with the Act are of such a nature as to create a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the Secretary may bring an action under section 1409 seeking the immediate suspension of the tobacco product manufacturer's annual limitation cap on civil judgments. If the court determines that the Secretary has proved by clear and convincing evidence that the subject manufacturer's actions or inactions are of such a nature that they present a clear and present danger that the manufacturer will not attain the targets for underage smoking reduction, the court may suspend the subject manufacturer's annual limitation cap on civil judgments.

SEC. 1411. TOBACCO CLAIMS BROUGHT AGAINST PARTICIPATING TOBACCO PRODUCT MANUFACTURERS.

(a) PERMISSIBLE DEFENDANTS.—In any civil action to which this title applies, tobacco claims may be filed or maintained only against—

(1) a participating tobacco product manufacturer; or

(2) a surviving entity established by a participating tobacco product manufacturer.

(b) ACTIONS INVOLVING PARTICIPATING AND NON-PARTICIPATING MANUFACTURERS.—In any civil action involving both a tobacco claim against a participating tobacco product manufacturer based in whole or in part upon conduct occurring prior to the date of enactment of this Act and a claim against 1 or more non-participating tobacco product manufacturers, the court, upon application of a participating tobacco product manufacturer, shall require the jury to or shall itself apportion liability as between the participating tobacco product manufacturer and non-participating tobacco product manufacturers.

SEC. 1412. PAYMENT OF TOBACCO CLAIM SETTLEMENTS AND JUDGMENTS.

(a) IN GENERAL.—Except as provided in this section, any judgment or settlement in any civil action to which this subtitle applies shall be subject to the process for payment of judgments and settlements set forth in this section. No participating tobacco product manufacturer shall be obligated to pay a judgment or settlement on a tobacco claim in any civil action to which this title applies except in accordance with this section. This section shall not apply to the portion, if any, of a judgment that imposes punitive damages based on any conduct that—

(1) occurs after the date of enactment of this Act; and

(2) is other than the manufacture, development, advertising, marketing, or sale of tobacco products in compliance with this Act and any agreement incident thereto.

(b) REGISTRATION WITH THE SECRETARY OF THE TREASURY.—

(1) The Secretary shall maintain a record of settlements, judgments, and payments in civil actions to which this title applies.

(2) Any party claiming entitlement to a monetary payment under a final judgment or final settlement on a tobacco claim shall register such claim with the Secretary by filing a true and correct copy of the final judgment or final settlement agreement with the Secretary and providing a copy of such filing to all other parties to the judgment or settlement.

(3) Any participating tobacco product manufacturer making a payment on any final judgment or final settlement to which this section applies shall certify such payment to the Secretary by filing a true and correct copy of the proof of payment and a statement of the remaining unpaid portion, if any, of such final judgment or final settlement with the Secretary and shall provide a copy of such filing to all other parties to the judgment or settlement.

(c) LIABILITY CAP.—

(1) IN GENERAL.—The aggregate payments made by all participating tobacco product manufacturers in any calendar year may not exceed $8,000,000,000.

(2) IMPLEMENTATION.—The Secretary shall initiate a rulemaking within 30 days after the date of enactment of this Act to establish a mechanism for implementing this subsection in such a way to ensure the fair and equitable payment of final judgments or final settlements on tobacco claims under this title. Amounts not payable because of the application of this subsection, shall be carried forward and paid in the next year, subject to the provisions of this subsection.

(3) INFLATION ADJUSTMENT.—

(A) IN GENERAL.—The amount in paragraph (1) shall be increased annually, beginning with the second calendar year beginning after the date of enactment of this Act, by the greater of 3 percent or the annual increase in the CPI.

(B) CPI.—For purposes of subparagraph (A), the CPI for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(C) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1,000, the increase shall be rounded to the nearest multiple of $1,000.

(d) INJUNCTIVE RELIEF.—A participating tobacco product manufacturer may commence an action to enjoin any State court proceeding to enforce or execute any judgment or settlement where payment has not been authorized under this section. Such an action shall arise under the laws of the United States and may be commenced in the district court of the United States for the district in which the State court proceeding is pending.

(e) JOINT AND SEVERAL LIABILITY.—All participating tobacco product manufacturers shall be jointly and severally liable for, and shall enter into an agreement to apportion among them, any amounts payable under judgments and settlements governed by this section arising in whole or in part from conduct occurring prior to the date of enactment of this Act.

(f) BANKRUPTCY OF PARTICIPATING MANUFACTURER.—No participating tobacco product manufacturer shall cease operations without establishing a surviving entity against which a tobacco claim may be brought. Any obligation, interest, or debt of a participating, tobacco product manufacturer arising under such liability apportionment agreement shall be given priority and shall not be rejected, avoided, discharged, or otherwise modified or diminished in a proceeding, under title 11, United States Code, or in any liquidation, reorganization, receivership, or other insolvency proceeding under State law. A trustee or receiver in any proceeding under title 11, United States Code, or in liquidation, reorganization, receivership, or other insolvency proceeding under State law, may avoid any transfer of an interest of the participating tobacco product manufacturer, or any obligation incurred by such manufacturer, that was made or incurred on or within 2 years before the date of the filing of a bankruptcy petition, if such manufacturer made such transfer or incurred such obligation to hinder or defeat in any fashion the payment of any obligation, interest, or

debt of the manufacturer arising under the liability apportionment agreement. Any property vesting in the participating tobacco product manufacturer following such a proceeding shall be subject to all claims and interest of creditors arising under the liability apportionment agreement.

(g) LIMITATION ON STATE COURTS.—No court of any State, Tribe, or political subdivision of a State may take any action to inhibit the effective operation of subsection (c).

SEC. 1413. ATTORNEYS' FEES AND EXPENSES.

(a) ARBITRATION PANEL.—

(1) RIGHT TO ESTABLISH.—For the purpose of awarding of attorneys' fees and expenses relating to litigation affected by, or legal services that, in whole or in part, resulted in or created a model for programs in, this Act, and with respect to which litigation or services the attorney involved is unable to agree with the plaintiff who employed that attorney with respect to any dispute that may arise between them regarding the fee agreement, the matter at issue shall be submitted to arbitration. In any such arbitration, the arbitration panel shall consist of 3 persons, one of whom shall be chosen by the plaintiff, one of whom shall be chosen by the attorney, and one of whom shall be chosen jointly by those 2 arbitrators.

(2) OPERATION.—Not later than 30 days after the date on which all members of an arbitration panel are appointed under paragraph (1), the panel shall establish the procedures under which the panel will operate which shall include—

(A) a requirement that any finding by the arbitration panel must be in writing and supported by written reasons;

(B) procedures for the exchanging of exhibits and witness lists by the various claimants for awards;

(C) to the maximum extent practicable, requirements that proceedings before the panel be based on affidavits rather than live testimony; and

(D) a requirement that all claims be submitted to an arbitration panel not later than 3 months after the date of this Act and a determination made by the panel with respect to such claims not later than 7 months after such date of enactment.

(3) RIGHT TO PETITION.—Any individual attorney or group of attorneys involved in litigation affected by this Act shall have the right to petition an arbitration panel for attorneys' fees and expenses.

(4) CRITERIA.—In making any award under this section, an arbitration panel shall consider the following criteria:

(A) The time and labor required by the claimant.

(B) The novelty and difficulty of the questions involved in the action for which the claimant is making a claim.

(C) The skill requisite to perform the legal service involved properly.

(D) The preclusion of other employment by the attorney due to acceptance of the action involved.

(E) Whether the fee is fixed or a percentage.

(F) Time limitations imposed by the client or the circumstances.

(G) The amount involved and the results obtained.

(H) The experience, reputation, and ability of the attorneys involved.

(I) The undesirability of the action.

(J) Such other factors as justice may require.

(5) APPEAL AND ENFORCEMENT.—The findings of an arbitration panel shall be final, binding, nonappealable, and payable within 30 days after the date on which the finding is made public, except that if an award is to be paid in installments, the first installment shall be payable within such 30 day period and succeeding installments shall be paid annually thereafter.

(b) VALIDITY AND ENFORCEABILITY OF PRIVATE AGREEMENTS.—Notwithstanding any other provision of this Act, nothing in this section shall be construed to abrogate or restrict in any way the rights of any parties to mediate, negotiate, or settle any fee or expense disputes or issues to which this section applies, or to enter into private agreements with respect to the allocation or division of fees among the attorneys party to any such agreement.

(c) OFFSET FOR AMOUNTS ALREADY PAID.—In making a determination under this section with regard to a dispute between a State that pursued independent civil action against tobacco product manufacturers and its attorney, the arbitration panel shall take into account any amounts already paid by the State under the agreement in dispute.

SEC. 1414. EFFECT OF COURT DECISIONS.

(a) SEVERABILITY.—If any provision of titles I through XIII, or the application thereof to any person, manufacturer or circumstance, is held invalid, the remainder of the provisions of those titles, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) NONSEVERABILITY.—If a court of competent jurisdiction enters a final decision substantially limiting or impairing the essential elements of title XIV, specifically the requirements of sections 1404 and 1405, then the provisions of section 1412 are null and void and of no effect.

SEC. 1415. CRIMINAL LAWS NOT AFFECTED.

Nothing in this title shall be construed to limit the criminal liability of tobacco product manufacturers, retailers, or distributors or their directors, officers, employees, successors, or assigns.

SEC. 1416. CONGRESS RESERVES THE RIGHT TO ENACT LAWS IN THE FUTURE.

The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress in accordance with the provisions of Article I of the Constitution of the United States and more than 200 years of history.

SEC. 1417. DEFINITIONS.

In this title:

(1) TERMS DEFINED IN TITLE VII.—Any term used in this title that is defined in title VII has the meaning given to it in title VII.

(2) ADDITIONAL DEFINITIONS.—

(A) ADDICTION CLAIM; DEPENDENCE CLAIM.—The term "addiction claim" or "dependence claim" refers only to any cause of action to the extent that the prayer for relief seeks a cessation program, or other public health program that is to be available to members of the general public and is designed to reduce or eliminate the users' addiction to, or dependence on, tobacco products, and as used herein is brought by those who claim the need for nicotine reduction assistance. Neither addiction or dependence claims include claims related to or involving manifestation of illness or tobacco-related diseases.

(B) COMPENSATORY DAMAGES.—The term "compensatory damages" refers to those damages necessary to reimburse an injured party, and includes actual, general, and special damages.

(C) PROTOCOL.—The term "protocol" means the agreement to be entered into by the Secretary of Health and Human Services with participating tobacco product manufacturers under this title.

(D) PUNITIVE DAMAGES.—The term "punitive damages" means damages in addition to compensatory damages having the character of punishment or penalty.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury, except where the context otherwise requires.

JEFFORDS (AND OTHERS) AMENDMENT NO. 2715

Mr. JEFFORDS (for himself, Mr. HARKIN, Mr. LEAHY, Mr. MOYNIHAN, and Mr. ALLARD) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 21, lines 2 and 3, strike "$699,836,000, to remain available until October 1, 2000, of which" and insert "$758,854,000, to remain available until October 1, 2000, of which not less than $3,860,000 shall be available for solar building technology research, not less than $72,966,000 shall be available for photovoltaic energy systems, not less than $21,617,500 shall be available for solar thermal energy systems (of which not less than $3,000,000 shall be available for the dish/engine field verification initiative), not less than $35,750,000 shall be available for power systems in biomass/biofuels energy systems, not less than $41,083,500 shall be available for transportation in biomass/biofuels energy systems (of which not less than $3,000,000 shall be available to fund the Consortium for Plant Biotechnology Research), not less than $38,265,000 shall be available for wind energy systems, not less than $4,000,000 shall be available for the renewable energy production incentive program, not less than $7,000,000 shall be available for solar program support, not less than $5,087,000 shall be available for the international solar energy program, not less than $680,000 shall be available for solar technology transfer, not less than $5,000,000 shall be available for the National Renewable Energy Laboratory, not less than $31,250,000 shall be available for geothermal technology development, not less than $5,000,000 shall be available for the Federal building/Remote power initiative, not less than $16,325,500 shall be available for program direction,".

On page 36, between lines 13 and 14, insert the following:

SEC. 3 OFFSETTING REDUCTIONS.

Each amount made available under the headings "NON-DEFENSE ENVIRONMENTAL MANAGEMENT", "URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND", "SCIENCE", and "DEPARTMENTAL ADMINISTRATION" under the heading "ENERGY PROGRAMS" and "CONSTRUCTION, REHABILITATION, OPERATION and MAINTENANCE, WESTERN AREA POWER ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)" under the heading "POWER MARKETING ADMINISTRATIONS" is reduced by 1.586516988447 percent.

Prior year balances may not be reduced if they are obligated under an existing written agreement or contract to laboratories, universities or industry.

Appropriate use of funds to support meetings and technical conferences are allowed consistent with DOE's mission.

Funding increases for this amendment are for cost-shared RD&D, deployment, and technology transfer via technical and trade associations and allied non-governmental organizations.

COATS (AND LEVIN) AMENDMENT NO. 2716

Mr. COATS (for himself and Mr. LEVIN) proposed an amendment to the bill, S. 2138, supra; as follows:

At the end, add the following:

TITLE II—INTERSTATE WASTE

SEC. 201. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following:

"SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(C) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(3)(A) Except as provided in paragraph (4), any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing State as follows:

"(i) In calendar year 1999, 95 percent of the amount exported to the State in calendar year 1993.

"(ii) In calendar years 2000 through 2005, 95 percent of the amount exported to the State in the previous year.

"(iii) In calendar year 2006, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

"(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.

"(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste more than the following amounts of municipal solid waste:

"(I) In calendar year 1999, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

"(II) In calendar year 2000, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1999.

"(III) In calendar year 2001, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 2000.

"(IV) In calendar year 2002, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 2001.

"(V) In calendar year 2003, 1,000,000 tons.

"(VI) In calendar year 2004, 750,000 tons.

"(VII) In calendar year 2005 or any calendar year thereafter, 550,000 tons.

"(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

"(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

"(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities and the Governor of the importing State may only apply subparagraph (A) or (B) but not both.

"(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(C).

"(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall be applied to all States in violation of paragraph (3).

"(6) ANNUAL STATE REPORT.—

"(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year, and the amount of waste that was received pursuant to host community agreements or permits authorizing receipt of out-of-State municipal solid waste. Within 120 days after enactment of this section and on May 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

"(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste. States making submissions referred to in this section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.

"(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste. The list for any calendar year shall be published by June 1 of the following calendar year.

For purposes of developing the list required in this section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this section, nor to verify data provided by the States pursuant to this section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this section shall be final and not subject to judicial review.

"(D) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

"(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action to enter into a host community agreement after the date of enactment of this subsection shall, prior to taking such action—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

"(C) provide an opportunity for public comment; and

"(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

"(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

"(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

"(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

"(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

"(D) A description of environmental controls to be utilized at the facility.

"(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental

laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

"(H) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

"(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

"(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

"(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

"(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

"(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

"(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

"(A) that is permitted under Federal or State law;

"(B) that is identified under the State plan; and

"(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

"(d) COST RECOVERY SURCHARGE.—

"(1) AUTHORITY.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

"(2) APPLICABILITY.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

"(3) LIMITATION.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

"(4) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1.00 per ton of waste.

"(5) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

"(6) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under clause (i) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax paid to the State or its political subdivision or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(7) DEFINITIONS.—As used in this subsection:

"(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

"(B) The term 'processing' means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

"(e) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts; or

"(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period: *Provided*, That such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

"(f) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

"(i) the public body created by State law with responsibility to plan for municipal solid waste management, a majority of the members of which are elected officials, for the area in which the facility is located or proposed to be located; or

"(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

"(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

"(ii) If a Governor fails to make and publish notice of such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

"(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

"(2) HOST COMMUNITY AGREEMENT.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State waste is also included.

"(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is inconsistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States. Notwithstanding any other provision of law, generators of municipal solid waste outside the United States shall possess no greater right of access to disposal facilities in a State than United States generators of municipal solid waste outside of that State.

"(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company in which the generator of the waste has an ownership interest;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

"(6) The terms 'specifically authorized' and 'specifically authorizes' refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to any place of origin, reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources outside the State.

"(g) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal solid waste.".

SEC. 202. NEEDS DETERMINATION.

The Governor of a State may accept, deny or modify an application for a municipal solid waste management facility permit if—

(1) it is done in a manner that is not inconsistent with the provisions of this section;

(2) a State law enacted in 1990 and a regulation adopted by the Governor in 1991 specifically requires the permit applicant to demonstrate that there is a local or regional need within the State for the facility; and

(3) the permit applicant fails to demonstrate that there is a local or regional need within the State for the facility.

DASCHLE AMENDMENT NO. 2717

Mr. DOMENICI (for Mr. DASCHLE) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 9, line 3, after "expended," insert "of which $460,000 may be made available for the Omaha District to pay pending takings claims for flooding of property adjacent to the Missouri River caused by actions taken by the Army Corps of Engineers, of which $2,540,000 shall be available for the project on the Missouri River between Fort Peck Dam and Gavins Point in South Dakota and Montana, under section 9(f) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (102 Stat. 4031)".

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 2718

Mr. DOMENICI (for Mr. LAUTENBERG, for himself and Mr. TORRICELLI) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 8, line 9, add the following before the period:

": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $500,000 of funds appropriated herein to continue construction of the Joseph G. Minish Passaic River waterfront park and historic area, New Jersey project".

LEVIN (AND GLENN) AMENDMENT NO. 2719

Mr. DOMENICI (for Mr. LEVIN, for himself and Mr. GLENN) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 8, line 9, before the period at the end insert ": *Provided further*, That of amounts made available by this Act for project modifications for improvement of the environment under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), $500,000 may be made available for demonstration of sediment remediation technology under section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644)".

BIDEN AMENDMENT NO. 2720

Mr. DOMENICI (for Mr. BIDEN) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 27, line 21, delete "." and insert in lieu thereof the following:

": *Provided further*, That of the amount appropriated herein $30,000,000 is to be available for the Initiatives for Proliferation Prevention program: *Provided further*, That of the amount appropriated herein $30,000,000 shall be available for the purpose of implementing the 'nuclear cites' initiative pursuant to the discussions of March 1998 between the Vice President of the United States and the Prime Minister of the Russian Federation and between the U.S. Secretary of Energy and the Minister of Atomic Energy of the Russian Federation."

LEVIN AMENDMENT NO. 2721

Mr. DOMENICI (for Mr. LEVIN) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 8, line 9, insert the following before the period:

": *Provided further*, That the Secretary of the Army may make available $100,000 for the Belle Isle Shoreline Erosion Protection, Michigan project; $100,000 for the Riverfront Towers to Renaissance Center Shoreline Protection, Michigan project; and $200,000 for the Great Lakes Basin, Sea Lamprey Control, Section 206, Michigan, project".

REID AMENDMENT NO. 2722

Mr. DOMENICI (for Mr. REID) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 22, line 19, insert the following before the period:

": *Provided further*, That $500,000 of the unobligated balanced may be applied to the identification of trace element isotopes in environmental samples at the University of Nevada-Las Vegas".

CLELAND AMENDMENT NO. 2723

Mr. DOMENICI (for Mr. CLELAND) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 3, line 8, insert the following before the period:

": *Provided further*, That the Secretary of the Army may make available $500,000 for the Atlanta Watershed, Atlanta, Georgia project".

LEVIN (AND GLENN) AMENDMENT NO. 2724

Mr. DOMENICI (for Mr. LEVIN, for himself and Mr. GLENN) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 10, line 7, before the period insert ", of which $250,000 may be made available to support the National Contaminated Sediment Task Force established by section 502 of the Water Resources Development Act of 1992 (33 U.S.C. 1271 note; Public Law 102–580)".

DASCHLE AMENDMENT NO. 2725

Mr. DOMENICI (for Mr. REID) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 22, line 14, strike: "$2,669,560,000" and replace it with "$2,676,560,000".

DORGAN (AND CONRAD) AMENDMENT NO. 2726

Mr. DOMENICI (for Mr. DORGAN, for himself and Mr. CONRAD) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 18, line 2 insert the following after the period:

": *Provided further*, That the Secretary of the Interior shall waive the scheduled annual payments for fiscal years 1998 and 1999 under section 208 of Public Law 100–202 (101 Stat. 1329–118)".

And on page 16, line 16 strike: "$697,919,000" and insert: "$697,669,000".

MURRAY (AND GORTON) AMENDMENT NO. 2727

Mr. DOMENICI (for Mrs. MURRAY, for herself and Mr. GORTON) proposed an amendment to the bill, S. 2138, supra; as follows:

On page 21, line 19: strike "$456,700,000, to remain available until expended." and insert "424,600,000, to remain available until expended."

ENERGY SUPPLY

On page 21, line 2 strike "motor vehicles for replacement only, $699,836,000, to re-" and insert "motor vehicles for replacement only, 699,864,000, to re-"

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

BURNS (AND OTHERS) AMENDMENT NO. 2728

(Ordered to lie on the table.)

Mr. BURNS (for himself, Mrs. MURRAY, Mr. STEVENS, Mr. BYRD, and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 324, below line 14, add the following:

SEC. 2705. AUTHORIZATION OF ADDITIONAL MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS.

(a) ADDITIONAL ARMY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Kansas	Fort Riley	$16,500,000
Kentucky	Fort Campbell	$15,500,000
Maryland	Fort Detrick	$7,100,000
New York	Fort Drum	$7,000,000
Texas	Fort Sam Houston	$5,500,000
Virginia	Fort Eustis	$4,650,000
	Fort Meyer	$6,200,000

(b) ADDITIONAL ARMY CONSTRUCTION PROJECT OUTSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(b), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out the military construction project for the location outside the United States, and in the amount, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Korea	Camp Casey	$8,000,000

(c) IMPROVEMENT OF ARMY FAMILY HOUSING AT WHITE SANDS MISSILE RANGE, NEW MEXICO.—In addition to the projects authorized by section 2103, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), as increased by subsection (d), the Secretary of the Army may also improve existing military family housing units (36 units) at White Sands Missile Range, New Mexico, in an amount not to exceed $3,650,000.

(d) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, ARMY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2104(a) is hereby increased by $74,100,000.

(2) The amount authorized to be appropriated by section 2104(a)(1) is hereby increased by $62,450,000.

(3) The amount authorized to be appropriated by section 2104(a)(2) is hereby increased by $8,000,000.

(4) The amount authorized to be appropriated by section 2104(a)(5)(A) is hereby increased by $3,650,000.

(e) ADDITIONAL NAVY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2201(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), as increased by subsection (g), the Secretary of the Navy may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Florida	Naval Station, Mayport	$3,400,000
Maine	Naval Air Station, Brunswick	$15,220,000
Pennsylvania	Naval Inventory Control Point, Mechanisburg.	$1,600,000
	Naval Inventory Control Point, Philadelphia.	$1,550,000
South Carolina	Marine Corps Recruit Depot, Parris Island.	$8,030,000

(f) IMPROVEMENT OF NAVY FAMILY HOUSING AT WHIDBEY ISLAND NAVAL AIR STATION, WASHINGTON.—In addition to the projects authorized by section 2203, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), as increased by subsection (g), the Secretary of the Navy may also improve existing military family housing units (80 units) at Whidbey Island Naval Air Station, Washington, in an amount not to exceed $5,800,000.

(g) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, NAVY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2204(a) is hereby increased by $35,600,000.

(2) The amount authorized to be appropriated by section 2204(a)(1) is hereby increased by $29,800,000.

(3) The amount authorized to be appropriated by section 2204(a)(5)(A) is hereby increased by $5,800,000.

(h) ADDITIONAL AIR FORCE CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2301(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), as increased by subsection (k), the Secretary of the Air Force may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Colorado	Falcon Air Force Station	$5,800,000
Georgia	Robins Air Force Base	$6,000,000
Louisiana	Barksdale Air Force Base	$9,300,000
North Dakota	Grand Forks Air Force Base	$8,800,000
Ohio	Wright-Patterson Air Force Base	$4,600,000
Texas	Goodfellow Air Force Base	$7,300,000
Wyoming	F.E. Warren Air Force Base	$3,850,000

(i) CONSTRUCTION AND ACQUISITION OF AIR FORCE FAMILY HOUSING.—In addition to the projects authorized by section 2302(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also construct or acquire family housing units (including land acquisition) at the installation, for the purpose, and in the amount set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Montana	Malmstrom Air Force Base	62 Units	$12,300,000

(j) IMPROVEMENT OF AIR FORCE FAMILY HOUSING.—In addition to the projects authorized by section 2303, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also improve existing military family housing units as follows:

(1) Travis Air Force Base, California, 105 units, in an amount not to exceed $10,500,000.

(2) Moody Air Force Base, Georgia, 68 units, in an amount not to exceed $5,220,000.

(3) McGuire Air Force Base, New Jersey, 50 units, in an amount not to exceed $5,800,000.

(4) Seymour Johnson Air Force Base, North Carolina, 95 units, in an amount not to exceed $10,830,000.

(k) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, AIR FORCE MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2304(a) is hereby increased by $90,300,000.

(2) The amount authorized to be appropriated by section 2304(a)(1) is hereby increased by $45,650,000.

(3) The amount authorized to be appropriated by section 2304(a)(5)(A) is hereby increased by $44,650,000.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

DASCHLE AMENDMENT NO. 2729

Mr. DASCHLE proposed an amendment to the bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Programs for fiscal year ending September 30, 1999, and for other purposes; as follows:

[See text of amendment No. 2714 on pages S6581–S6627 of today's RECORD.]

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a full committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 25, 1998 at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of William L. Massey to be a member of the Federal Energy Regulatory Committee.

For further information, please contact Gary Ellsworth of the Committee staff at (202) 224-7141.

SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing entitled "The Safety of Food Imports: From the Farm to the Table—A Case Study of Tainted Imported Fruit." This hearing is the second in a series of hearings the Subcommittee has scheduled as part of an in-depth investigation into the safety of food imports. The hearing will be a case study of an outbreak of Cyclospora associated with fresh raspberries imported into the United States from Central America. The outbreak of Cyclospora occurred in over 20 states across the country in 1996 and in 1997.

This hearing will take place on Thursday, July 9, 1998, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the Subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 17, and Thursday, June 18, 1998, to conduct a hearing on H.R. 10, the Financial Services Act of 1998.

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

COMMITTEE ON FINANCE

Mr. JEFFORDS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, June 18, 1998 beginning at 10:00 a.m., in room 215 Dirksen.

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

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, June 18, 1998, at 10:00 a.m., in room 226, of the Senate Dirksen Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 18, 1998 at 2:00 p.m., in room 226 of the Senate Dirksen Office Building to hold a hearing on "Judicial Nominations."

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources and the House Commerce, Subcommittee on Health and Environment be authorized to meet for a hearing on "Putting Patients First: resolving the Allocation of Transplant Organs" during the session of the Senate on Thursday, June 18, at 2:30 p.m.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 18, 1998, at 10:00 am to hold a hearing.

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

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. JEFFORDS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, June 18, 1998 at 2:00 p.m. for a hearing on "The Adequacy of Commerce Department Satellite Export Controls."

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on National parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 18, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 469, a bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers Act; S. 1016, a bill to authorize appropriations for the Coastal Heritage Trail Route in New Jersey, and for other purposes; S. 1665, a bill to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, and for other purposes; S. 2039, a bill to amend the National Trails System Act to designate El Camino Real Tierra Adentro as a National Historic Trail; and H.R. 2186, a bill to authorize the Secretary of the Interior to provide assistance to the National Trails Interpretive Center in Casper, Wyoming.

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

CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Caucus on International Narcotics Control be authorized to meet during the session of the Senate on Thursday, June 18 at 2:00 p.m. to receive testimony on the U.S. Efforts in International Demand Reduction Programs.

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

ADDITIONAL STATEMENTS

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

• Mr. SMITH of New Hampshire. Mr. President, later this year, under the so-called Brady Law, the National Instant Criminal Background Check System (NICS) will go into effect. The purpose of NICS is to prevent the purchase of guns by persons who are prohibited from owning firearms.

Pursuant to the Privacy Act of 1974, on June 4, 1998, the United States Department of Justice published in the Federal Register a notice of its intention to establish a new system of records with respect to NICS to be maintained by the Federal Bureau of Investigation.

I am particularly concerned about the statement in the Justice Department's June 4 notice that states that "[i]n cases where the NICS background check does not locate a disqualifying record, information about the individual will only be retained temporarily for audit purposes and will be destroyed after eighteen months."

It seems to me, Mr. President, that there is no reason whatever why the FBI would need to retain private information on a law-abiding citizen for any time at all, let alone for eighteen months, after that person has been determined not to be someone who is prohibited by law from owning a firearm. Any legitimate "audit purposes" could certainly be addressed without retaining such private information on file at the FBI.

Mr. President, later this year the Senate will be considering the Fiscal Year 1998 appropriations bill for the Commerce, Justice, and State Departments, the Judiciary, and related agencies. It is my intention to introduce an

amendment to that bill as soon as it is reported to the Senate by the Committee on Appropriations. The text of my amendment will be as follows:

"None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); provided, that any person aggrieved by a violation of this provision may bring an action in the federal district court for the district in which the person resides; provided, further, that any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee."

I am taking the unusual step of notifying the Senate of my intention to offer this amendment in the hope that the Committee on Appropriations will consider including my proposed language in the Commerce, Justice, State, and the Judiciary appropriations bill when it is reported to the Senate.•

HONORING CROSS STREET A.M.E. ZION CHURCH ON ITS 175TH ANNIVERSARY

• Mr. DODD. Mr. President, I rise today to pay tribute to Cross Street African Methodist Episcopal Zion Church on the occasion of its 175th anniversary. This church, located in Middletown, Connecticut, has been a beacon of spiritual guidance in the community for many generations. In fact, Cross Street is the second oldest A.M.E. Zion Church in Connecticut and the seventh oldest in the world.

The church's tradition of moral leadership and service to its community dates back to its earliest years. The Reverend Jehiel Beamon, the son of a former slave from Colchester, Connecticut, was the first pastor at the church. Not only was he a leader within the church, but he was also an active abolitionist who helped found the Middletown Anti-Slavery Society. He was also president of the Connecticut State Convention of Colored Men, which worked to secure voting rights for African-Americans. Due to his involvement and activities in the community, this church was called "The Freedom Church" by many people.

Since that time, the church has been rebuilt and it has also moved. But while it has undergone physical changes, there has never been any wavering in the importance that this church holds for its congregation and surrounding community.

In the church's written history, it is said that "the sole purpose for the church's formation was to secure a place for people of color to worship freely." But Cross Street A.M.E. Zion Church has become far more than simply a place of worship.

The members of Cross Street A.M.E. Zion have carried their message of hope beyond the church's walls and into the neighboring community. They are helping people in and around Middletown to deal with the difficult social problems of the modern day. They have initiated various projects to deal with issues ranging from homelessness to HIV. The people of Cross Street A.M.E. Zion Church are acting on their faith and they are reaching out to those in need to make their community a better place to live.

This past April, I had the opportunity to attend Cross Street A.M.E. Zion Church for its Palm Sunday services. I was struck by the deep sense of faith and hope among the congregation, and I was pleased to share in their worship on that day. I offer my heartfelt congratulations to the Cross Street A.M.E. Zion Church on its 175th anniversary. Theirs has been a very rich history, and I hope that the church will continue to play a positive role in the lives of its congregation and surrounding community for many years to come.•

RELEASE OF A NEW GAO REPORT PRIVATE HEALTH INSURANCE: DECLINING EMPLOYER COVERAGE MAY AFFECT ACCESS FOR 55- TO 64-YEAR-OLDS

• Mr. JEFFORDS. Mr. President, as the Chairman of the Committee on Labor and Human Resources, I have closely monitored Americans' access to health insurance coverage in order to have a better understanding of the trends and underlying causes of declining coverage. Today, I am releasing a new U.S. General Accounting Office (GAO) report, entitled Private Health Insurance: Declining Employer Coverage May Affect Access for 55- to 64-Year-Olds (GAO/HEHS–98–133). This report examines access of the "near elderly" population to employer-based and individually purchased private insurance. Specifically, the report discusses the employment, income, health, and health insurance status of the near elderly, their ability to obtain employer-based health insurance if they retire before becoming eligible for Medicare, and their health insurance coverage through the individual market or employer-based continuation insurance. The findings of this report will be the focus of a Labor Committee hearing scheduled for June 25, 1998.

This report and the related hearing have been prompted by a growing concern that several factors may converge to create the situation where a large number of 55- to 64-year-old Americans could lose, or have to pay considerably more for, health insurance coverage. Access to affordable health insurance is especially critical for this population, since their health status is worse than that of any other age group except the elderly who have the guarantee of Medicare.

The near elderly population can be characterized as a group in transition. Their employment status, income, and health are all changing. The GAO reports that currently about 14 percent of the near elderly have no health insurance. Although this rate is lower than that of the nonelderly population in general, the GAO found several disturbing trends that could lead to a substantial increase in the numbers of near elderly without health insurance coverage. This would be especially problematic, since the near elderly have 25 percent lower median family incomes, but 45 percent higher health care expenses than younger age groups. The economic impact would be even greater when "baby boomers" join the near elderly, swelling their ranks from 21 million now, to 35 million by 2010.

Most of the near elderly acquire health insurance coverage from one of the same three sources as individuals in other age groups: their employers, the individual private insurance market, or the Government. The main difference between coverage for the near elderly and the elderly is that all elderly qualify for Medicare, but only those near elderly who are ill or disabled qualify for public benefits. The main difference between coverage for the near elderly and younger populations is that a larger proportion of the near elderly are covered by public programs or have individual coverage through the private market. The near elderly are more likely to be willing to purchase individual coverage than younger age groups, because they are more averse to the risk of high health care costs.

The two main factors contributing to the trend for more near elderly to become uninsured are the loss of employer-based coverage and the rising costs of individual insurance. The GAO reports that in 1996, 65 percent of the near elderly had employer-based insurance; but, despite the strong economy, this coverage is being eroded, particularly as the near elderly retire. Already the rate of health coverage offered by large employers to retirees has fallen faster than that of coverage for active employees, from an estimated 60 to 70 percent in the 1980s to less than 40 percent now. In addition, retirees are being asked to cover a larger share of the premiums. For example, in 1995, retirees contributed an average of $655 more for family coverage than did active workers. The higher costs have prompted some near elderly to drop

coverage. The GAO reports that 27 percent of the 5.3 million retirees who discontinued employer-based benefits in 1994 cited expense as a factor.

Retirees also are finding that more employers are linking retirement health benefits to length of service. The GAO report cites the example of one company's requiring 35 years of service to qualify for the maximum employer contribution of 75 percent. This trend does not bode well for retirees who have changed jobs frequently.

The source of health insurance for the near elderly generally correlates with employment, health, and income status. The GAO reported that near elderly who had individual health insurance were more likely to be employed, be in good health, and have higher incomes than those on Medicare and Medicaid. The correlation is not absolute, however, because 20 percent of the uninsured had family incomes of more than $50,000 per year, and one-third of near elderly with individual insurance had incomes of less than $20,000. It should be noted that the latter figure may be misleading because this group may have less-expensive coverage, less-comprehensive benefits, or the income measured may not have included all of their resources.

In general, the near elderly are more likely than younger age groups to purchase insurance through the individual market if they lose employer-based coverage. Often, however, they find that they do not qualify because of preexisting conditions, or that the cost of individual coverage is prohibitive because premiums take into account the fact that this age group uses more medical services than younger age groups. The GAO found that premiums for individual coverage constituted 10 percent of the median family income for the married near elderly in Colorado, which is almost twice as much as the retiree share of employer-subsidized family coverage.

Some States have provisions guaranteeing access to some form of individual coverage, but in most States individual insurance for the near elderly is limited by exclusion of certain conditions or body parts, or denial of coverage. Chronic conditions that are common in this age group such as diabetes and heart disease, and even such non-life-threatening conditions as chronic back pain, may limit eligibility for coverage. Reform measures that have been considered or implemented to remedy these problems include initiatives to limit variation in premium rates; guarantees of certain products to all applicants; and State pools for those who have been rejected by at least one carrier. These measures have met with variable success. Overall, the GAO found that about 15 percent of all applicants were denied individual coverage, while many others were denied coverage for specific conditions.

Since 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) has provided temporary access to health insurance for individuals of all ages who leave the work force. COBRA may be particularly important to the near elderly before they become eligible for Medicare. It is attractive for continuation coverage, because its premiums reflect lower group coverage rates, and it does not exclude preexisting conditions. However, several factors limit the near elderly's ability to use COBRA benefits: It is available only to retirees whose employers have at least 20 employees and who offer health insurance benefits; it lasts for only 18 months; and it may not be affordable since employers do not provide contributions. It also is important to note that many people who could benefit from this program do not know about it.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) also guarantees that some people who leave group coverage have access to individual coverage and cannot be excluded for preexisting conditions. However, HIPAA has stringent eligibility requirements, depends on exhausting COBRA or other continuation benefits, and places no limits on the cost of premiums.

Before HIPAA was enacted, individuals usually relinquished COBRA before they had used up all of their benefits. The impact of HIPAA on the use of COBRA remains to be determined, but cost may prevent many near elderly from being able to afford to take advantage of either. The GAO reports that whereas one company paid almost the entire cost of health benefits for active employees, the COBRA cost ranged from about $5,600 to almost $8,000 per year for family coverage. This is a great deal of money, particularly for people who are taking advantage of the program because they are leaving the work force.

I believe the GAO report, Private Health Insurance: Declining Employer Coverage May Affect Access for 55- to 64-Year-Olds (GAO/HEHS-98-133), will be an important resource as Congress considers proposals to expand health insurance coverage.

Mr. President, I ask that excerpts of the executive summary of the report be printed in the RECORD.

The material follows:

PRIVATE HEALTH INSURANCE DECLINING EMPLOYER COVERAGE MAY AFFECT ACCESS FOR 55- TO 64-YEAR-OLDS

EXECUTIVE SUMMARY

Purpose

A series of age-related transitions heighten the importance of health insurance to 55- to 64-year-old (near elderly) Americans and could place them at greater risk of losing, or paying considerably more for, coverage. Too young to qualify for Medicare, many near elderly are considering retirement or gradually moving out of the workforce. These events may be related to worsening health, job displacement, or simply the desire for more leisure time. Since health insurance for most Americans is an employment-related benefit, retirement may necessitate looking for another source of affordable coverage. However, insurance purchased directly in the individual market or temporary continuation coverage purchased through an employer are typically expensive alternatives and may not always be available. Their affordability, moreover, may be exacerbated both by declining health and the reduction in income associated with retirement. For some near elderly, an alternative to retiring without insurance is simply to continue working.

The Chairman, Senate Committee on Labor and Human Resources, requested GAO to assess the ability of Americans aged 55 to 64 to obtain health benefits through the private market—either employer-based or individually purchased. In particular, he requested an examination of the available evidence on the near elderly's health, employment, income, and health insurance status; ability to obtain employer-based health insurance if they retire before becoming eligible for Medicare; and use of and costs associated with purchasing coverage through the individual market or employer-based continuation insurance.

To provide the Congress with information about the near elderly and their ability to obtain health insurance, GAO analyzed the March 1997 Current Population Survey (CPS), a source widely used by researchers; reviewed the literature on employer-based health benefits for early retirees; interviewed employers, benefit consultants, insurers, and other experts knowledgeable about retiree health issues and the individual insurance market; and updated information provided in previous GAO reports.

Background

Like most Americans, over 80 percent of the near elderly have access to some type of health insurance—either comprehensive or partial. Nevertheless, continued access to health insurance is a primary concern for some 55- to 64-year-olds who retire early or who lose access to employer-based coverage. First, Medicare is not generally available until one reaches age 65. Second, most Americans under age 65 rely on coverage provided by an employer—a link that may be severed by retirement, a voluntary reduction in hours, or job displacement. The existing alternatives to employer-based coverage for the near elderly are (1) individually purchased insurance, (2) temporary continuation coverage from a former employer, (3) public programs such as Medicare and Medicaid, and (4) becoming uninsured. Among those aged 55 to 64, Medicare or Medicaid are available only to the very poor or the disabled.

Some near elderly may encounter difficulty in obtaining comprehensive, affordable coverage through the individual market or in obtaining any health coverage at all. The high cost of individual insurance often mirrors the near elderly's greater use of medical services compared with younger age groups. Moreover, some individuals may be denied individual insurance because of preexisting health conditions. Retirees whose jobs provided health benefits that ended at retirement, however, may continue temporary coverage for up to 18 months under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Only firms with 20 or more employees who offer health insurance to active workers are required to provide COBRA continuation coverage. When

available, COBRA coverage may entail substantial out-of-pocket costs, because the employer is not required to pay any portion of the premium. For eligible individuals leaving group coverage who exhaust any available COBRA or other conversion coverage, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) guarantees access to the individual market, regardless of health status and without coverage exclusions. The premiums faced by some individuals eligible for a HIPAA guaranteed access product, however, may be substantially higher than the prices charged to those in the individual market who are healthy.

Persons seeking an alternative to employer-based coverage may go through a common mental calculus in which health status and cost play a prominent role. For someone healthy, there are no access barriers to the individual market and the cost may be lower than COBRA, especially if he or she buys a policy with a higher deductible. For someone with a health condition who wants comprehensive coverage, the individual market may not be an option because of health screening by insurers—a process that can result in the denial of coverage or the exclusion of preexisiting conditions. However, COBRA, if available, has no such screening and should be more affordable than individually purchased insurance because of economies of scale and reduced administrative costs that result in lower premiums for group coverage. HIPAA's group-to-individual portability now provides a link between COBRA and the individual market for those who are eligible, but it is too early to judge the extent to which unhealthy consumers will utilize this option.

Results in Brief

Though the near elderly access health insurance differently than other segments of the under-65 population, their overall insurance picture is no worse and is better than that of some younger age groups. These differences, however, may not portend well for the future. Since fewer employers are offering health coverage as a benefit to future retirees, the proportion of near elderly with access to affordable health insurance could decline. The resulting increase in uninsured near elderly would be exacerbated by demographic trends, since 55- to 64-year-olds represent one of the fastest growing segments of the U.S. population.

The current insurance status of the near elderly is largely due to (1) the fact that many current retirees still have access to employer-based health benefits, (2) the willingness of near-elderly Americans to devote a significant portion of their income to health insurance purchased through the individual market, and (3) the availability of public programs to disabled 55- to 64-year-olds. Today, the individual market and Medicare and Medicaid for the disabled often mitigate declining access to employer-based coverage for near-elderly Americans and may prevent a larger portion of this age group from becoming uninsured. The steady decline in the proportion of large employers who offer health benefits to early retirees, however, clouds the outlook for future retirees. In the absence of countervailing trends, it is even less likely that future 55- to 64-year-olds will be offered health insurance as a retirement benefit, and those who are will bear an increased share of the cost. Although trends in employers' required retiree cost sharing are more difficult to decipher than the decisions of firms not to offer retiree health benefits, the effects may be just as troublesome for future retirees. Thus, some additional employers have tied cost sharing to years of service; consequently, retirees who changed jobs frequently may be responsible for most of the premium.

Moreover, access and affordability problems may prevent future early retirees who lose employer-based health benefits from obtaining comprehensive private insurance. The two principal private insurance alternatives are the individual market and COBRA continuation coverage. With respect to individual insurance, the cost may put it out of reach of some 55- to 64-year-olds—an age group whose health and income is in decline. For example, the premiums for popular health insurance products available in the individual markets of Colorado and Vermont are at least 10 percent and 8.4 percent, respectively, of the 1996 median family income for the married near elderly. In contrast, the average retiree contribution for employer subsidized family coverage is about one-half of these percentages. The near elderly who are in poorer health run the risk of paying even higher premiums, having less comprehensive coverage offered, or being denied coverage altogether. Thirteen states require insurers to sell some individual market products to all who apply, and about 20 states limit the variation among premiums that insurers may offer to individuals. GAO found that conditions such as chronic back pain and glaucoma are commonly excluded from coverage or result in higher premiums. Furthermore, significant variation exists among the states that limit premiums: A few require insurers to community-rate the coverage they sell—that is, all those covered pay the same premium—while other states allow insurers to vary premiums up to 300 percent or more.

COBRA is only available to retirees whose employers offer health benefits to active workers, and coverage is only temporary, ranging from 18 to 36 months. Information on the use of COBRA by Americans is spotty. Although 55- to 64-year-olds who become eligible for COBRA are more likely than younger age groups to enroll, the use of continuation coverage by early retirees appears to be relatively low. Since new federal protections under HIPAA—ensuring access to individual insurance for qualifying individuals who leave group coverage—hinge on exhausting COBRA, the incentives for enrolling and the length of time enrolled could change. Because employers generally do not contribute toward the premium, the cost of COBRA may be a factor in the low enrollment, even though similar coverage in the individual market may be more expensive. In 1997, the average insurance premium for employer-based coverage was about $3,800. However, there is significant variation in premiums due to firm size, benefit structure, locale, demographics, or aggressiveness in negotiating rates. For one company, total health plan premiums in 1996 for early retirees ranged from about $5,600 to almost $8,000 for family coverage. Since this firm paid the total cost of practically all of the health plans it offered to current workers, the COBRA cost would have come as a rude awakening to retirees . . .•

PROGRESS IN NIGERIA?

• Mr. FEINGOLD. Mr. President, I rise for the second time in less than two weeks to comment on the extraordinary events taking place in Nigeria.

Earlier this week, Nigeria's new leader, Gen. Abdulsalam Abubakar, released nine of the country's best known political prisoners. I welcome this step, with the hope that the release of these individuals demonstrates a commitment to enact true democratic reform in this troubled West African country.

These individuals include some of Nigeria's top political, labor and human rights leaders. For the record, I will list their names here.

General Olusegun Obassanjo (rt.), a former head of state and the only military leader to turn over power to a democratically elected civilian government and who has played a prominent role on the international stage as an advocate of peace and reconciliation. He had been sentenced following a secret trial that failed to meet international standard of due process over an alleged coup plot that has never been proven to exist.

Frank Kokori, Secretary General of the National Union of Petroleum and Natural Gas Workers (NUPENG). He was arrested in August 1994, although charges have never been filed.

Chris Anyanwu, Editor-in-Chief and publisher of The Sunday Magazine.

Human rights activist Dr. Beko Ransome-Kuti.

Milton Dabibi, Secretary General of the Petroleum and Natural Gas Senior Staff Association (PENGASSAN), who was arrested in January 1996 for leading demonstrations against the canceled 1993 elections and against government efforts to control the labor unions.

Politician Olabiyi Durojaye.

Former Sultan of Sokoto, Ibrahim Dasuki.

Former state governor Bola Ige.

Uwen Udoh, democracy campaigner.

Mr. President, these individuals have all played an important role in Nigeria, and were all arrested under circumstances that confirm our worst fears of the overarching power of the military in Nigeria. Their release is significant.

That said, I do not want to become overly enthusiastic about the situation in Nigeria. For despite this great gesture, hundreds of other political prisoners remain in detention—often without charge. Prominent among these remaining prisoners, is, of course Chief Moshood Abiola, presumed winner of the 1993 presidential election, who was thrown in jail on charges of treason. Whatever his role might be in any upcoming transition process, his release and some meaningful acknowledgment of his annulled mandate is key to that process.

On top of that, numerous repressive decrees remain in force, including the infamous State Security [Detention of Persons] Decree #2, which gives the military sweeping powers of arrest and detention. The existence of such decrees would allow the military to rearrest any of the prisoners released this week at any time.

Mr. President, I recently introduced S. 2102, The Nigerian Democracy and Civil Society Empowerment Act of 1998, which calls on the United States to encourage the political, economic and legal reforms necessary to ensure the rule of law and respect for human rights in Nigeria and to aggressively support a timely and effective transition to democratic, civilian government for the people of Nigeria.

Among other policy initiatives, this bill establishes a set of benchmarks regarding the transition to democracy. These benchmarks include a call for the release of "individuals who have been imprisoned without due process or for political reasons."

The release this week of nine prisoners is a start. Let's hope Nigeria's new leader continues to implement policies that move the country in the right direction.

Nigeria's people deserve no less.

Mr. President, I ask to have printed in the RECORD a New York Times piece from June 17, 1998, that presents an excellent overview of the reaction inside Nigeria over Abubakar's actions.

The article follows:

[From the New York Times, June 17, 1998]

FOR NIGERIA'S LEADER, OFFENSE IS THE BEST DEFENSE

(By Howard W. French)

From the moment Gen. Abdulsalam Abubakar was selected last week to succeed the late ruler, Gen. Sani Abacha, Nigerians began speculating whether a reformist era might be at hand after years of ruinous dictatorship. After all, General Abubakar was long reputed to be a prim professional among Nigeria's politicized and immensely rich generals.

With his order on Monday to release a core group of the country's best-known political prisoners, including an internationally respected former head of state, General Abubakar sent the first clear signal of his intention to bring about an overhaul in the way his country is run, and more than that, conveyed a sense of urgency in the matter.

Though the general's position is precarious, Western diplomats and Nigerian analysts say he has decided to move decisively and not wait to consolidate his power. To delay, the say, would risk falling victim to powerful enemies at opposite extremes of his country's no-holds-barred politics.

"General Abubakar had no choice but to move forward if he wanted to salvage his country and protect himself," said one Western diplomat. "To have postponed making difficult decisions about democracy and prisoners, or to defer the issue of a transition to civilian rule, would have been to play the game of his enemies. The army would have devoured him itself, and failing that there would have been a major risk of a civilian uprising."

On one side, General Abubakar faces his own army, an institution whose top officers have grown fat on years of power, and many of whose younger leaders have climbed the rungs of power awaiting their turn at the trough.

As army chief of staff, General Abubakar had no direct command over the mechanized units that typically determine who holds or takes power in the country. Moreover, the new head of state had none of the huge personal wealth of his predecessors, having avoided the kinds of army jobs that allow top brass to dole out lucrative contracts to other officers, siphoning off kickbacks and purchasing staff loyalty.

On the other side, Nigeria's large and well-developed opposition was emboldened by the death of General Abachar, who had a reputation as the most iron-fisted leader his country of 105 million people had ever known.

And because General Abacha and his military predecessors had so regularly flouted their pledges to restore democracy or arrange a transition to civilian rule, General Abubakar could promise little that would make a dent in the distrust of a hardened political class.

For many veterans of Nigeria's democracy movement, the only acceptable tactic is to take on the army head on, and with the army divided, they feel the future is now.

People both inside the army and out say that General Abubakar's best hope—and decisive test—of engineering a transition to civilian rule is to work with the man believed to have won the country's only democratic election, in 1993, Moshood K. O. Abiola. The last military Government annulled the vote and threw Mr. Abiola in jail, where he remains.

In this scenario, General Abubakar would involve Mr. Abiola in negotiations aimed at easing the military out of power, in much the same way Nelson Mandela helped work out a soft landing for South Africa's apartheid rulers before his release from prison in 1990.

It is too early to say whether this hope will come about in Nigeria, and many hurdles remain.

General Abubakar's first gesture upon taking power, in an unusual post-midnight swearing in ceremony less than 24 hours after General Abacha's death, was to commit himself to his predecessor's previously declared but widely discounted deadline for an Oct. 1 handover to an elected civilian government.

Experts on the Nigerian military say that this pledge was intended more as a bid to outflank the army, whose powerful factions are known to oppose any democratic change, than as an effort to placate a deeply skeptical civilian opposition.

The new leader's second hurdle, these experts say, was to prevent a showdown with pro-democracy groups sworn to carry out a series of protests linked to the fifth anniversary last Friday of the elections apparently won by Mr. Abiola, a millionaire businessman from the south.

The opposition ignored calls to cancel Friday's demonstrations, but security forces were relatively restrained in putting the protests down, marking a sharp turn from the wanton brutality of the Abacha years.

With the threat of strife defused, General Abubakar then freed the former head of state—a retired general, Olusegun Obasanjo—and seven other prominent prisoners, buying international praise and a more forgiving attitude from the opposition.

"A clash between an overzealous army and the June 12 protesters would have badly undercut Abubakar," said Walter Carrington, a former American ambassador to Nigeria. "The restraint that the army showed and the subsequent release of the prisoners suggests strongly that the new leadership has gained control over hard-liners in the army. What we will likely see now is a progressive release of more and more political prisoners."

By far the country's most important political prisoner is Mr. Abiola, the jailed presidential candidate. And ultimately, both the opposition and much of the outside world's judgment of General Abubakar will depend on his handling of Mr. Abiola, whose claim to the presidency is considered by most to be legitimate.

Whatever the opposition demands now, almost no one in Nigeria expects the military to simply surrender power. For one thing, Nigeria's military high command is dominated by northerners, including the new head of state himself, who after years of control are wary of an outright takeover by southerners.

Still, for many in the south, and beyond, no credible election in Nigeria can be organized until the nation comes to terms with the cancellation of Mr. Abiola's mandate.

Regional and ethnic antagonisms like these could scuttle any negotiated arrangements with Mr. Abiola. But many Nigerians suspect that discussions may already be under way to secure his release in a negotiated framework, providing him some recognition and perhaps a large role in transitional arrangements while keeping the field open for other candidates in a fresh election.

"There is no point in pretending that Abiola didn't win an election any longer," said one senior Nigerian military adviser who spoke on condition of anonymity. "What will have to be worked out is an arrangement with Abiola that allows the country to move forward."•

TRIBUTE IN HONOR OF ROGER WOOD, WOKQ NEWSCASTER

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Roger Wood, an institution in the broadcast community of New Hampshire. After 18 years as a radio reporter in New Hampshire, and 30 years in broadcasting, Roger will sign off at the end of this month to pursue other endeavors.

Roger, 50, is the news and public affairs director at WOKQ radio in Dover, New Hampshire. WOKQ is one of the largest stations in New Hampshire and, with its country music format, is my unequaled favorite. I am a WOKQ listener not only for the playlist, but because of the outstanding commitment, dignity and character that Roger Wood has brought to the airwaves in my years as an avid listener.

Roger's distinguished voice has broadcast the news to WOKQ's audience since 1979. Before that, Roger was a one-man news shop at WHEB AM/FM in nearby Portsmouth, and worked at a variety of Seacoast stations including WWNH in Rochester, WBBX in Portsmouth and New Hampshire Public Television. He also worked at a number of stations in his native Pennsylvania before he graced the Granite State with his presence in 1970.

Roger was never one to "rip and read." He always researched stories thoroughly, went the extra mile to get an interview, and provided in-depth coverage from both a human interest and hard news perspective. And he has the awards lining his walls that prove it.

Roger Wood is committed to his profession. He has won recognition from

UPI, AP, the New Hampshire Association of Broadcasters, and other organizations in the categories of outstanding reporting, best newscasts and individual achievement. He has said that one of the achievements that most touched him was his coverage in 1986 on the fatal launch of the Space Shuttle Challenger, with New Hampshire teacher Christa McAuliffe on board. Roger was at Cape Canaveral in person, and has said the implications of the explosion left him "deeply moved."

Although Roger Wood is a veteran newscaster, he is a trend setter for the new generation of broadcasters. He led WOKQ to an innovative partnership with Channel 7 in Boston, establishing the largest news exchange network in the region. He has also implemented the first cellular car phone reporting system in the region, for listeners to report accidents and news "they see happening."

Roger is committed to his community, as exemplified by involvement in the Seacoast Housing Partnership, a nonprofit organization dedicated to affordable housing issues; the Mayor's Blue Ribbon Committee to improve the environment of Pierce Island; the Greater Seacoast Economic Summit; and his volunteer work to help many local citizens in poverty.

Most importantly, Roger is committed to his family. He and his wife, Elaine, have been married for 27 years. They have three grown children, Roger, Jr., Emily, and Melissa. His family can be very proud of his achievements, and glad that they will finally have him around for breakfast!

My interviews with Roger always left us sharing a laugh and, though he rarely took any of my suggestions for use in the "Joke Du Jour," his resulting stories were always fair, thorough, and forthright as is always Roger's style. As he embraces future endeavors in the field of communications and public relations, I wish Roger Wood all the best. I am proud to represent him in the United States Senate, and proud to call him my friend.•

EDWARD LeLECHEUR

• Mr. KERRY. Mr. President, today I want to call the Senate's attention to Representative Edward LeLecheur and his long history of service to the Commonwealth of Massachusetts. The citizens of Massachusetts have benefitted from his many years of service and legislative leadership. Representative LeLecheur has distinguished himself as a community leader, an elected official and a family man.

Edward LeLecheur started out as the proprietor of Stolphine's Market in Lowell, MA. This small grocery store is located in the part of Lowell know as the Sacred Heart, named for the nearby Catholic church. Ed expanded his role in the community by running for and winning elected office in 1975. Since then, he has served the eighteenth Middlesex District for twenty-three years in the same way he served Stolphine's customers: one at a time, with integrity, dedication, and compassion.

Representative LeLecheur's giving spirit has manifested itself in a variety of ways. He drives physically challenged people to the Registry of Motor Vehicles, and purchases turkeys at Thanksgiving and Christmas time which he then delivers door-to-door. Those same people, and countless others, enjoy the baseball stadium which Representative LeLecheur helped bring to Lowell. Due to Ed LeLecheur, our national pastime is now part of the ongoing revitalization of Merrimac Valley, bringing prosperity and entertainment to families from all the surrounding communities.

As a member of the Ways and Means Committee for the past twelve years and as the current chair of the Committee on Personnel and Administration, Representative LeLecheur has also extended his spirit and service beyond his district. The state has been well served as a result of his leadership.

Representative LeLecheur has been successful not only as a state representative, but also as a family man. He and his wife Eileen were married on June 4, 1947, more than fifty years ago. Together they raised six children and are today the proud grandparents of ten grandsons and granddaughters.

Mr. President, I would like to thank him for his tireless devotion to his constituents and neighbors. Representative LeLecheur is an inspiration to all of us who work for positive change in our communities. I wish him and Eileen the very best as they embark on this new chapter in life.•

U.N. WORLD DAY TO COMBAT DESERTIFICATION AND DROUGHT

• Mr. FEINGOLD. Mr. President, I rise today to mark the United Nations World Day to Combat Desertification and Drought, which took place on June 17, 1998. This date is important because it is the fourth anniversary of the United Nations General Assembly's adoption of the Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa. The United States has signed this treaty, but the Senate has yet to exercise its advice and consent responsibilities on this important convention.

The World Day to Combat Desertification and Drought should serve as a reminder to this body that we should honor our constitutional responsibilities and act on this convention in a timely manner. As the ranking member of the Subcommittee on African Affairs, I have had the opportunity to see first-hand how valuable the provisions of this convention will be to the people of Africa. It is a mechanism by which the people of Africa will be assisted in preserving and protecting their land, which is a vital link in Africa's fight to become self-sufficient.

This convention is particularly important for Africa because more than two-thirds of the land comprising that continent is desert or dry land, and almost three-quarters of the dry land used for farming is in danger of becoming unusable. The Sahelian droughts of 1971–73 and 1984–85 contributed to the deaths of thousands and spurred migration that put further stress on already taxed land around Africa.

This Convention to Combat Desertification, which has already been ratified by 120 countries, establishes a framework to promote land and soil health in developing countries, in order to halt the kind of neglect that eventually leads to land that is unusable for farming. This convention is innovative because it requires participation from all segments of the population, from the farmers and herders who work the land, to local governments and environmental organizations, to those who affect environmental and agricultural policy at the national and regional levels.

I hope that the Senate will act on this convention in a timely manner, and that next year's anniversary of the Convention to Combat Desertification will be marked by progress in the world's efforts to protect the land and soil that sustains life in developing countries.•

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. COCHRAN. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The clerk will report S. 2057.

The assistant legislative clerk read as follows:

A bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill.

Pending:

Feinstein amendment No. 2405, to express the sense of the Senate regarding the Indian nuclear tests.

Brownback amendment No. 2407 (to amendment No. 2405), to repeal a restriction on the provision of certain assistance and other transfers to Pakistan.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as

amended, appoints the following Senators as members of the Senate Delegation to the Mexico-U.S. Interparliamentary Group Meeting during the Second Session of the 105th Congress, to be held in Morelia, Mexico, June 19–21, 1998: the Senator from Kansas (Mr. ROBERTS) and the Senator from Alabama (Mr. SESSIONS).

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. COCHRAN. Mr. President, in executive session, I ask unanimous consent the Indian Affairs Committee be discharged from further consideration of the nomination of Michael Trujillo to be Director of the Indian Health Service Department of Health and Human Services.

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

Mr. COCHRAN. I further ask unanimous consent that the Senate immediately proceed to its consideration and further ask consent that the Senate also proceed en bloc to the consideration of Calendar No. 625. I finally ask consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then turn to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Michael H. Trujillo, of New Mexico, to be Director of the Indian Health Service.

DEPARTMENT OF COMMERCE

Q. Todd Dickinson, of Pennsylvania, to be Deputy Commissioner Patents and Trademarks.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

COASTAL BARRIER RESOURCES SYSTEM

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 412, S. 1104.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1104) to direct the Secretary of the Interior to make corrections in maps relating to the Coastal Barrier Resources System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COCHRAN. Mr. President, I ask unanimous consent the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 1104) was considered read the third time, and passed as follows:

S. 1104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION TO MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to restore on that map the September 30, 1982, boundary for Unit M09 on the portion of Edisto Island located immediately to the south and west of the Jeremy Cay Causeway.

(b) MAP DESCRIBED.—The map described is the map included in a set of maps entitled "Coastal Barrier Resources System," dated October 24, 1990, that relates to the Unit of the Coastal Barrier Resources Systems entitled "Edisto Complex M09/M09P".

ORDER FOR STAR PRINT—S. 2157

Mr. COCHRAN. Mr. President, I ask unanimous consent that there be a star print of S. 2157, with the changes at the desk.

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

LIFE INSURANCE BENEFITS PRECEDENCE ORDER ACT OF 1997

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 265, H.R. 1316.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1316) to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the bill be considered read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 1316) was considered read the third time, and passed.

INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT AMENDMENTS OF 1998

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 402, S. 1279.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1279) to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act Amendments of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) Indian tribes and Alaska Native organizations that have participated in carrying out programs under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) have—

(A) improved the effectiveness of services provided by those tribes and organizations;

(B) enabled more Indian people to secure employment;

(C) assisted welfare recipients; and

(D) otherwise demonstrated the value of integrating education, employment, and training services;

(2) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should be strengthened by ensuring that all programs that emphasize the value of work may be included within a demonstration program of an Indian tribe or Alaska Native organization;

(3) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 shares goals and innovative approaches of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

(4) the programs referred to in paragraph (2) should be implemented by the Office of Self-Governance of the Department of the Interior, the unit within the Department of the Interior responsible for carrying out self-governance programs under the Indian Self-Determination and Education Assistance Act; and

(5) the initiative under the Indian Employment, Training and Related Services Demonstration Act of 1992 should have the benefit of the support and attention of the officials of—

(A) the Department of the Interior; and

(B) other Federal agencies involved with policymaking authority with respect to programs that emphasize the value of work for American Indians and Alaska Natives.

SEC. 3. AMENDMENTS TO THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992.

(a) DEFINITIONS.—Section 3 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3402) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2) the following:

"(1) FEDERAL AGENCY.—The term 'Federal agency' has the same meaning given the term 'agency' in section 551(1) of title 5, United States Code.".

(b) PROGRAMS AFFECTED.—Section 5 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3404) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The programs";

(2) in subsection (a), as designated by paragraph (1) of this subsection, by striking "employment opportunities, or skill development" and all that follows through the end of the subsection, and inserting "securing employment, retaining employment, or creating employment opportunities and other programs relating to the world of work."; and

(3) by adding at the end the following:

"(b) PROGRAMS.—The programs referred to in subsection (a) may include, at the option of an Indian tribe—

"(1) the program commonly referred to as the general assistance program established under the Act of November 2, 1921 (commonly known as the 'Snyder Act') (42 Stat. 208, chapter 115; 25 U.S.C. 13); and

"(2) the program known as the Johnson-O'Malley Program established under the Johnson-O'Malley Act (25 U.S.C. 452 through 457), if the applicable plan for the Indian tribe under section 4 includes educational services for elementary and secondary school students that familiarize those students with the world of work.".

(c) PLAN REVIEW.—Section 7 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3406) is amended—

(1) by striking "Federal department" and inserting "Federal agency";

(2) by striking "Federal departmental" and inserting "Federal agency";

(3) by striking "department" each place it appears and inserting "agency"; and

(4) in the third sentence, by inserting "statutory requirement," after "to waive any".

(d) PLAN APPROVAL.—Section 8 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3407) is amended—

(1) in the first sentence, by inserting before the period at the end the following: "(including any request for a waiver that is made as part of the plan submitted by the tribal government)"; and

(2) in the second sentence, by inserting before the period at the end the following: ", including reconsidering the disapproval of any waiver requested by the Indian tribe".

(e) JOB CREATION ACTIVITIES.—Section 9 of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3408) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The plan submitted"; and

(2) by adding at the end the following:

"(b) EMPLOYMENT OPPORTUNITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, including any requirement of a program that is integrated under a plan under this Act, a tribal government may use a percentage of the funds made available under this Act (as determined under paragraph (2)) for the creation of employment opportunities, including providing private sector training placement under section 10.

"(2) DETERMINATION OF PERCENTAGE.—The percentage of funds that a tribal government may use under this subsection is the greater of—

"(A) the rate of unemployment in the area subject to the jurisdiction of the tribal government; or

"(B) 10 percent.

"(c) LIMITATION.—The funds used for an expenditure described in subsection (a) may only include funds made available to the Indian tribe by a Federal agency under a statutory or administrative formula.".

(f) FEDERAL RESPONSIBILITIES.—Section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "Bureau of Indian Affairs" and inserting "Office of Self-Governance";

(2) in paragraph (3), by striking "and" at the end;

(3) in paragraph (4)—

(A) by inserting "delivered under an arrangement subject to the approval of the Indian tribe participating in the project," after "appropriate to the project,"; and

(B) by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(5) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out demonstration projects under this Act, in consultation with each such Indian tribe, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out demonstration projects under this Act to discuss issues relating to the implementation of this Act with officials of each department specified in subsection (a).".

(g) ADDITIONAL RESPONSIBILITIES.—In assuming the responsibilities for carrying out the duties of a lead agency under section 11(a) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3410(a)) pursuant to the amendments made to that section by subsection (f) of this section, the Director of the Office of Self-Governance of the Department of the Interior shall ensure that an orderly transfer of those lead agency functions to the Office occurs in such manner as to eliminate any potential adverse effects on any Indian tribe that participates in a demonstration project under the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(h) PERSONNEL.—In carrying out the amendment made by subsection (f)(1), the Secretary of the Interior shall transfer from the Bureau of Indian Affairs to the Office of Self-Governance of the Department of the Interior such personnel and resources as the Secretary determines to be appropriate.

SEC. 4. CONSOLIDATED ADVISORY COMMITTEES.

The Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.) is amended by adding at the end the following:

"SEC. 19. CONSOLIDATED ADVISORY COMMITTEE.

"(a) IN GENERAL.—The head of each Federal agency specified in section 4 that otherwise has jurisdiction over a program that is integrated under this Act (in accordance with a plan under section 6) shall permit a tribal government that carries out that plan to establish a consolidated advisory committee to carry out the duties of each advisory committee that would otherwise be required under applicable law (including any council or commission relating to private industry) to carry out the programs integrated under the plan.

"(b) WAIVERS.—As necessary to carry out subsection (a), each agency head referred to in that paragraph shall waive any statutory requirement, regulation, or policy requiring the establishment of an advisory committee (including any advisory commission or council).".

SEC. 5. ALASKA REGIONAL CONSORTIA.

The Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.), as amended by section 4 of this Act, is amended by adding at the end the following:

"SEC. 20. ALASKA REGIONAL CONSORTIA.

"(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary shall permit a regional consortium of Alaska Native villages or regional or village corporations (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) to carry out a project under a plan that meets the requirements of this Act through a resolution adopted by the governing body of that consortium or corporation.

"(b) WITHDRAWAL.—Nothing in subsection (a) is intended to prohibit an Alaska Native village or regional or village corporation from withdrawing from participation in any portion of a program conducted pursuant to that subsection.".

SEC. 6. EFFECTIVE DATES.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act, except that the transfer of functions to the Office of Self-Governance of the Department of the Interior under the amendment made by section 3(f)(1) shall be carried out not later than 90 days after the date of enactment of this Act.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 1279), as amended, was considered read the third time, and passed.

ORDERS FOR FRIDAY, JUNE 19, 1998

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, June 19. I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 2057, the Department of Defense authorization bill.

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

PROGRAM

Mr. COCHRAN. Mr. President, for the information of all Senators, the Senate will reconvene tomorrow at 10 o'clock

a.m. and immediately resume consideration of the Department of Defense authorization bill. It is hoped that Members who wish to offer amendments to the defense bill will come to the floor during Friday's session to offer and debate their amendments under short time agreements.

The majority leader has announced that there will be no votes during tomorrow's session. Therefore, any votes ordered with respect to the Department of Defense bill, or any other legislative or executive items, will be postponed to occur at a later date. The leader would also remind Members that the Independence Day recess is fast approaching. Therefore, the cooperation of all Members will be necessary to make progress on a number of important items, including appropriations bills, any available conference reports, the Higher Education Act, the Department of Defense authorization bill, and any other legislative or executive items that may be cleared for action.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. COCHRAN. Mr. 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 7:43 p.m., adjourned until Friday, June 19, 1998, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 18, 1998:

DEPARTMENT OF STATE

JOHN BRUCE CRAIG, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

ROBERT C. FELDER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

JAMES VELA LEDESMA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

ELIZABETH DAVENPORT MCKUNE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF QATAR.

GEORGE MU, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

ROBERT CEPHAS PERRY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CENTRAL AFRICAN REPUBLIC.

DAVID MICHAEL SATTERFIELD, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

JOSEPH GERARD SULLIVAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA.

DIANE EDITH WATSON, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATED STATES OF MICRONESIA.

MELISSA FOELSCH WELLS, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

KENT M. WIEDEMANN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF CAMBODIA.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

HOMI JAMSHED, OF CALIFORNIA
SUSAN MERRILL, OF VIRGINIA

DEPARTMENT OF STATE

NANCY MORGAN SERPA, OF NEW JERSEY

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

ELIZABETH A. HOGAN, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

JOHN W. WADE, OF MISSOURI

UNITED STATES INFORMATION AGENCY

SCOTT MARSHALL RAULAND, OF FLORIDA
SUSAN L. ZIADEH, OF WASHINGTON

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ERIC M. ALEXANDER, OF NEW MEXICO
KEITH MIMS ANDERTON, OF FLORIDA
MICHAEL A. BARKIN, OF FLORIDA
JAMES A. CAROUSO, OF ARIZONA
JONATHAN JAMES CARPENTER, OF CALIFORNIA
BENJAMIN E. CHANG, OF VIRGINIA
MICHAEL S. DIXON, OF IOWA
MARK R. EVANS, OF VIRGINIA
MITCHELL L. FERGUSON, OF CALIFORNIA
TROY DAMIAN FITRELL, OF WASHINGTON
SHAWN ERIC FLATT, OF MISSOURI
MARTINA FLINTROP, OF VIRGINIA
MARC FORINO, OF VIRGINIA
STEVEN B. FOX, OF NEW YORK
NATHAN V. HOLT, JR., OF FLORIDA
MELISSA ANNE HUDSON, OF TEXAS
CHERYL NORMAN JOHNSON, OF TEXAS
PHILIP WINSTON KAPLAN, OF NEW YORK
RAYMOND J. KENGOTT, OF FLORIDA
DALE G. KREISHER, OF OHIO
STEPHAN A. LANG, OF MISSOURI
MIREMBE NANTONGO, OF VIRGINIA
JAMES ALLEN PLOTTS, OF CALIFORNIA
WILLIAM SCOFIELD ROWLAND, OF WASHINGTON
DAVID V. SCOTT, OF WYOMING
BRIAN WESLEY SHUKAN, OF VIRGINIA
COURTNEY L. TURNER, OF VIRGINIA
ANDREW CHESTER WILSON, OF WASHINGTON
JOY ONA YAMAMOTO, OF CALIFORNIA

UNITED STATES INFORMATION AGENCY

JOE BERNARD LOVEJOY, OF TEXAS
MICHAEL PETER MACY, OF FLORIDA
KATHLEEN E. REILLY, OF CALIFORNIA
MARY DRAKE SCHCOLL, OF TEXAS
JOHN C. VANCE, OF WYOMING

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

EDWARD L. ALLEN, OF MAINE
JENNIFER ANNE ALSTON, OF VIRGINIA
GARY DEAN ANDERSON, OF TEXAS
ALEJANDRO BAEZ, OF TEXAS
ANDREA S. BAKER, OF MARYLAND
ROBERT ALLAN BARE, OF CALIFORNIA
LOUISE BRANDT BIGOTT, OF ILLINOIS
BRETT BLACKSHAW, OF NEW YORK
TOBIN JOHN BRADLEY, OF CALIFORNIA
CHRISTIE BROUILLETTE, OF CALIFORNIA
CRAIG P. BRYANT, OF OKLAHOMA
STEVEN R. BUTLER, OF KENTUCKY
JOHN R. BUZBEE, OF THE DISTRICT OF COLUMBIA
CHARLES L. CAMPBELL, OF THE DISTRICT OF COLUMBIA
ARNOLD CRESPO, OF TEXAS
JULIEN DEDMAN, JR., OF THE DISTRICT OF COLUMBIA
ERIC L. DERRICKSON, OF MARYLAND
KIRK ALLEN DEXTER, OF VIRGINIA
ERIK KNIGHT DOMAN, OF PENNSYLVANIA
LEAH MICHELLE FENWICK, OF CALIFORNIA
TIMOTHY THOMAS FITZGIBBONS, OF NEBRASKA
RAFAEL P. FOLEY, OF NEW YORK
ROBERT M. FREEDMAN, OF WASHINGTON
PAUL N. FUJIMURA, OF CALIFORNIA
CORY VINCENT GNAZZO, OF MASSACHUSETTS
JOSEPH ALEXANDER HAMILTON, OF NEW JERSEY
BRIAN FREDERICK HARRIS, OF WASHINGTON
MELANIE S. HARRIS, OF FLORIDA
DEBORAH SUE HART, OF NORTH CAROLINA
THOMAS P. HARWOOD, OF VIRGINIA
PETER G. HEMSCH, OF CALIFORNIA
JULIANA F. HILT, OF THE DISTRICT OF COLUMBIA
JEFFREY DAVID PRESTON HORWITZ, OF NEW YORK
MICHAEL SEAN HOWERY, OF VIRGINIA
KIRK M. HUBBARD, OF VIRGINIA
ROBERT JOHN JACHIM, JR., OF WASHINGTON
VIVIAN N. KELLER, OF THE DISTRICT OF COLUMBIA
MATTHEW A. KRICHMAN, OF VIRGINIA
NICHOLAS R. KUCHOVA, OF NEW JERSEY
JERRY C. LEE, OF VIRGINIA
JOANN MARIE LOCKARD, OF VIRGINIA
LAWRENCE J. MACKO, OF VIRGINIA
HILLARY MANN, OF THE DISTRICT OF COLUMBIA
NICHOLLE M. MANZ, OF WISCONSIN
DAVID L. MCCORMICK, OF MASSACHUSETTS
DANIEL FRANCIS MCNICHOLAS, OF ILLINOIS
BETNIE M. MEDERO-NAVEDO, OF VIRGINIA
KATHERINE MARIE METRES, OF ILLINOIS
RACHEL L. MEYERS, OF CALIFORNIA
MARC NORDBERG, OF TEXAS
ENRIQUE G. ORTIZ, OF THE DISTRICT OF COLUMBIA
CARLTON PHILADELPHIA, OF FLORIDA
KATHRYN M. PYLES, OF VIRGINIA
ROGER CLAUDE RIGAUD, OF NEW JERSEY
KEVIN S. ROLAND, OF MARYLAND
STEVEN B. ROYSTER, OF VIRGINIA
MICHAEL DEAN SESSUMS, OF FLORIDA
SEIJI T. SHIRATORI, OF OREGON
DONALD ANGUS SHROPSHIRE, OF VIRGINIA
PHILLIP T. SLATTERY, OF CALIFORNIA
JAMES BROWARD STORY, OF SOUTH CAROLINA
TIMOTHY C. SWANSON, OF ARIZONA
DANIEL J. THOMPSON, OF VIRGINIA
VERNELLE TRIM, OF VIRGINIA
DAVID NORMAN TYSON, OF VIRGINIA
DUNCAN HIGHITT WALKER, OF CALIFORNIA
LISA LOUISE WASHBURN, OF TEXAS
J. RICHARD WATERS, OF ALABAMA
RANDALL A. WEYANDT, OF VIRGINIA
CARL-HEINZ JASON WEMHOENER-CUITE, OF VIRGINIA
MARGARET BRYAN WHITE, OF GEORGIA
WILLIAM D. WHITT, OF NEW YORK
BENJAMIN V. WOHLAUER, OF VIRGINIA
WILLIAM YOUNGER WOOD, JR., OF CALIFORNIA
JEFFERY A. YOUNG, OF FLORIDA
JOSEPH E. ZADROZNY, JR., OF TEXAS

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

TO BE MAJOR GENERAL

BRIG. GEN. EDMUND C. ZYSK, X...

To be brigadier general

COL. WILLIAM J. DAVIES, X...
COL. JAMES P. COMBS, X...

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH)MICHAEL L. COWAN, X...

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 18, 1998:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MICHAEL H. TRUJILLO, OF NEW MEXICO, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF COMMERCE

Q. TODD DICKINSON, OF PENNSYLVANIA, TO BE DEPUTY COMMISSIONER OF PATENTS AND TRADEMARKS.

HOUSE OF REPRESENTATIVES—*Thursday, June 18, 1998*

The House met at 10 a.m.

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

O gracious God, from Whom all blessings flow, we are grateful for all the gifts of life that You have so freely given. For all the days past, in good times and bad, Your spirit has been with us to strengthen and to heal. In all the days ahead we look with anticipation to the new opportunities of service and with the hope that the waters of justice will flow over us and all people. And for this day we ask a full measure of Your grace that we will be the people You would have us be and do those good deeds that honor You and serve people everywhere.

In Your name we pray. 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 Tennessee (Mr. CLEMENT) come forward and lead the House in the Pledge of Allegiance.

Mr. CLEMENT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 1-minutes on each side.

EDUCATION SAVINGS ACCOUNTS

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

Mr. DELAY. Mr. Speaker, the Wisconsin Supreme Court ruled last week that taxpayer-financed vouchers payable to parochial schools are constitutional, and today we will pass legislation that will allow parents to set up tax-free education savings accounts that they can use to send their children to the school of their choice.

The top priority of parents has always been to get the best education for their children. Now our Nation is moving in the right direction when it gives parents more choices and when it makes the schools more accountable, and many of our public schools are the best in the world but others need to be improved so that our children can get the kind of education that will help them realize the American dream.

As the debate progresses, let us remember that the reason we have schools is to educate our children. It is not to support labor unions or to give bureaucrats more money. So let us support education savings accounts so parents can help their children get the best education possible.

CLOSING THE GENDER GAP?

(Mr. ROGAN asked and was given permission to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, the Washington Post reports that test scores in core subjects for young women like math and science have risen. Despite this reassuring news on the academic front, there is also evidence causing great alarm. Today young women are now turning to drugs, tobacco and alcohol at a much earlier age.

Citing the national "Girls Report," the article said the number of young women who smoke has nearly doubled in the last 5 years alone. This rate far exceeds that of their male peers. The number of girls who use marijuana has more than tripled in the same period.

The number of young women arrested has steadily increased over the last 10 years. In an interesting correlation, the number of girls who participate in after school athletics has declined, while the number of girls who report depression has increased.

Recently I joined Majority Leader DICK ARMEY in my district to recognize the work of several facilities that are working to ensure a healthy environment for our children. As Congress now considers education reform, I hope we will heed the warning signs ahead and empower successful local programs. Our children and our country deserve no less.

SUPPORT GUTIERREZ BILL TO PREVENT DEPORTATION OF THE SEVERELY ILL

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

Mr. GUTIERREZ. Mr. Speaker, our legislation often affects millions of people. Today I ask you to consider just one person, a young girl named Keysi Castillo. Keysi is your typical, happy 10-year-old except for one thing. She has a severe medical problem, a congenital heart condition requiring surgery, supervision and long-term care.

But her troubles do not stop there. She and her mother face possible deportation. For anyone, that is serious. For Keysi it is a matter of survival. Her doctor has declared that being sent back to her native Honduras would be tantamount to a death sentence.

Honduras lacks the health care that she requires and its climate and high altitude pose a considerable risk to her health. Keysi is too young to know about politics or immigration policy, but she knows that she is sick and you and I know we can help her.

Today I will introduce a bill to do that, to enable Keysi to remain in the United States to receive the care she needs to prevent what her doctors call a death sentence.

My colleagues, please help. Help change one life for the better. Help me pass the legislation for Keysi.

A SELECT COMMITTEE ON U.S. NATIONAL SECURITY SHOULD EXAMINE TECHNOLOGY TRANSFERS TO COMMUNIST CHINA

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

Mr. GIBBONS. Mr. Speaker, the first responsibility of Congress and this government is to protect the citizens of the United States from an outside attack and to be prepared to defend this great Nation. It appears that the Clinton administration, however, has woefully failed in this responsibility. If true, then they have failed this Congress, and regrettably they have failed America.

I strongly support House Resolution 463 to establish a Select Committee on U.S. National Security to examine the illegal transfer of classified United States technology to Communist China. Mr. Speaker, this is not a partisan issue, this is not politics as usual. This is a national security issue that cuts to the very core of what we stand for and what we believe.

We have equipped our military with the finest technology in the world. To deliberately allow that technology to fall into the hands of enemies places each and every soldier, sailor, airmen

and marine at risk. Ultimately it needlessly places the Nation at risk.

Mr. Speaker, I urge my colleagues to support this resolution. It is the right thing to do, our national security demands it, our military deserves it, our Nation expects it.

THE CORRELATION BETWEEN THE INABILITY TO GET CAMPAIGN FINANCE REFORM AND THE KILLING OF TOBACCO LEGISLATION IN THE SENATE

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

Mr. MEEHAN. Mr. Speaker, yesterday the rule for campaign finance reform was pulled off the floor. It is now June 18, and we still have not had an up or down vote on the bipartisan Shays-Meehan campaign finance reform bill.

On the same day they pulled the bill and the rule over in the Senate; they killed the tobacco legislation designed to protect America's children from tobacco.

It is interesting. Six million dollars from the tobacco companies to the Republican National Committee, $100 million in a campaign to try to get the Congress to do nothing on tobacco.

The American people get the correlation between the amount of money the tobacco companies have invested and the inability to get campaign finance reform. There is a connect, and people get it. We have a bipartisan campaign finance reform in the House that we need to vote on; that is, Shays-Meehan. And we have a bipartisan tobacco bill in the House; that is, Hansen-Meehan-Waxman.

Let us move on this legislation and protect America's children.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEY). Members are reminded under the rules not to refer to actions of the Senate.

SCHOOL CHOICE DENIED FOR DISTRICT OF COLUMBIA'S CHILDREN

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

Mr. SHIMKUS. Mr. Speaker, our President said to District schoolchildren, "Tough luck." We do not get to hear a liberal say that very often, but the President's veto of the District's scholarship bill last month is an in-your-face slap at District parents and children. "Too bad for you" is the message. Too bad for you, that is, if you happen to be poor.

Just look at the pattern. Failed, dangerous schools, and the liberals ask for more money. Congress votes for more money, and in return we get failed dangerous schools where almost no learning takes place. And so the liberals come back the following year and say, "Look, the problem is the schools need more money." And so Congress spends more money, more money for everyone knows that the problem is not enough money. More failure, more school violence follows, and so the pattern is repeated year after year after year.

The same people who would never one second accept dangerous, dysfunctional schools for their own kids are as determined as ever to deny school choice to those who do not have a choice. As a former teacher it makes me sad.

WE NEED MANAGED CARE AND TOBACCO REFORM

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

Mr. GREEN. Mr. Speaker, when are we going to get serious about real reform?

Republicans in the Senate have killed tobacco legislation which would have helped to reduce teen smoking, and House Republicans are refusing to allow real managed care reform to come to the floor. The majority is allowing the quality of medical care for our citizens to decline considerably while allowing the tobacco industry to jeopardize our children's health.

It is estimated that 3,000 young people start smoking every day. One-third of these children will eventually die from tobacco-related diseases. We need to stop the next generation from becoming addicted to tobacco. We need to establish guidelines and protections for patients to give them access to quality health care.

The American people have asked us to protect their children from smoking and are demanding top quality medical care. We need tobacco reform, we need managed care reform. Eighty percent of Americans want a patients' bill of rights and tobacco reform. The Republican majority in Congress is denying Americans these important rights.

SUPPORT THE CHILD CUSTODY PROTECTION ACT

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, can my colleagues picture Joyce Farley's shock when she discovered that her 13-year-old daughter had an abortion after being transported by a stranger across state lines without Miss Farley's knowledge? The truth is simple and tragic.

Crystal was date raped and impregnated. The man's mother arranged for Crystal's abortion, transported her to New York in order to circumvent Pennsylvania's parental consent laws, paid for the abortion and then casually dropped her off 30 miles from home so that this minor girl could fend for herself.

Crystal had to undergo a second abortion because the first one was botched, and she faced a prospect of serious psychological and physical and post-abortion complications.

This scenario could be a real life experience for any parent in America.

There is legislation to keep this from being repeated, however. H.R. 3682 is not about outlawing abortion. It is about the right of every parent, including Joyce Farley, to counsel, comfort and help their child. It protects the most vulnerable, inherent and sacred right that exists, that between a parent and a child.

HELP REBUILD CRUMBLING SCHOOLS

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

Mr. BALDACCI. Mr. Speaker, I rise to urge my colleagues to support the motion that will be offered later today by the gentleman from New York (Mr. RANGEL) to provide Federal assistance for school construction instead of providing taxpayer subsidized education benefits for private schools.

Last spring in Maine a commission of school facilities completed a comprehensive examination of the physical condition of our State's schools. The commission identified safety, legal compliance improvements and repairs urgently needed in our schools. They identified other repairs and other necessary improvements idly waiting funding with faint hope of assistance from State and municipal budgets.

Students cannot learn in classrooms with leaky ceilings, poor air quality and wiring that could not support modern technology such as computers. America's students would be far better off by adopting the Rangel school construction plan than by adopting a misguided proposal that will help relatively few families send their children to private school.

I urge my colleagues to invest in our educational infrastructure and to support the Rangel motion.

REPUBLICANS DELIVER FOR TOBACCO COMPANIES

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

Mr. MILLER of California. Mr. Speaker and Members of the House,

over the past 3 years, the tobacco companies have delivered millions of dollars to the Republican National Committee and to the Republican Congressional Campaign Committee and to Republican Members of the House of Representatives and of the Senate.

Yesterday, the United States Senate delivered for the tobacco companies. Yesterday, the United States Senate, after a month of debate and delay, voted to kill the tobacco bill, which was designed to get back to and pay back many of the health care costs that this government has spent because of tobacco illnesses and death, and to try to keep our young children from smoking. Yesterday the Senate killed that. They delivered on their campaign promises.

Today the House sets out to do the same. It is setting out to kill campaign finance reform so that they can continue to keep the tobacco money flowing to the Republican Party.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NEY). Members need to be reminded that it is not within the rules to make such references to actions of the Senate on the floor of the House.

AMERICA NEEDS SCHOOL CHOICE

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

Mr. BARR of Georgia. Mr. Speaker, in my home State of Georgia, a record number of high school juniors, over 17,000, failed this year to pass a basic skills test as a prerequisite for graduation. This week the House of Representatives took steps to respond to this problem by passing a resolution condemning the deplorable practice of promoting unqualified students for social reasons. This must be viewed as only the first step.

We must follow it by taking creative steps to increase parental choice and involvement in education such as encouraging charter schools, establishing education savings accounts, protecting the rights of parents to home school their children, and exploring the notion of school vouchers.

For decades, teachers, students and Washington bureaucrats have tried to shape our education system, yet their involvement has resulted in higher and higher spending and lower and lower performance. It is time to turn things around. The fact is, bureaucrats and big labor do not, cannot and should not educate our children. Teachers and parents do, should and must.

If we are really serious about improving education, let us not worry about schools, let us worry about teaching the hearts and minds of our students with parents and teachers, with the best interests of those students in mind.

PASS CAMPAIGN FINANCE REFORM

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

Mr. MENENDEZ. Mr. Speaker, yesterday the other body of the Congress failed America's children by killing campaign——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

Mr. COBURN. Mr. Speaker, it is inappropriate to mention the other body.

The SPEAKER pro tempore. The gentleman is correct about such characterizations.

PARLIAMENTARY INQUIRY

Mr. MENENDEZ. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MENENDEZ. Is not "the other body" the appropriate way to refer to the Senate?

The SPEAKER pro tempore. Critical references to the other body are not in order.

Mr. MENENDEZ. Mr. Speaker, yesterday, someone killed tobacco legislation and failed the children in this country. I guess we do not want to talk about who failed the children in this country, and bowed to big tobacco interests. Here in the House, the Republican leadership is trying to kill campaign finance reform through death by amendment.

Listen to what our colleague, the gentlewoman from Washington (Mrs. SMITH), a Republican representative, in yesterday's Wall Street Journal said about the GOP leadership's unquenchable love of cash. She quickly discovered that it was a common practice for the GOP majority to hold up action on bills while milking interested contributors for more campaign contributions, and she said, "We do what? Isn't that extortion?" I think it is. I think LINDA SMITH is right.

The fact of the matter is, the reason that the Republican leadership is trying to kill campaign finance reform in this House is because they would not be allowed to continue what LINDA SMITH calls "extortion." She is right, and we should pass campaign finance reform in this House.

SUPPORT EDUCATION SAVINGS ACCOUNTS

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

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, yesterday President Clinton, in a letter to Speaker GINGRICH, wrote that the legislation creating education savings accounts, which we will consider today, would weaken public education and shortchange our children. That charge is preposterous.

I would like one Democrat to explain why giving parents more control and more power over their children's education would not be good for their children. I would like one Democrat on the other side to explain how more competition would result in worse schools. I would like one Democrat to look in the eyes of children in dangerous or dysfunctional schools and explain why they would want to keep them there. I would like one Democrat to explain why they would sell out American children, once again, to the education special interests who block every real reform that comes to this body, and who are the ones who are shortchanging our children.

Today, let us vote for the children. Let us support education savings accounts.

KIDS WILL DIE IF THEY BEGIN SMOKING

(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, every day in America, 3,000 children begin to smoke. 1,000 of those children will die. Yesterday, the other body of this Congress gave those children a death notice by failing to pass a comprehensive tobacco reform bill supported by bipartisan public health groups around the Nation.

Shame, shame, shame.

But I will take the time, which I hope my colleagues will do as well, to listen to the children. We will bring children from around the Nation here to the United States Capitol on Wednesday, June 24, to listen to their life-and-death stories about how tobacco has impacted their lives, how they are crying out for us in the United States Congress to do our job. I hope that we in this body will listen to the children and not render to the children of America a death notice as they move into the 21st century.

I hope that we will listen; I hope that we will act. We will hear from the children here in the United States Congress on June 24. More tobacco reform is needed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will again remind Members that references to the other body that are critical in nature are not within the bounds and Rules of the House, and upon any further references, the Members will be interrupted.

EDUCATION SAVINGS ACT

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

Mr. CHRISTENSEN. Mr. Speaker, today I rise in support of the Education Savings Act for public and private schools.

Last year we passed the Taxpayer Relief Act of 1997 giving families the first tax cut in 16 years and making college more affordable by establishing education savings accounts.

Today, I will vote to give parents even more control over their children's future. This bill gives tax incentives for parents to save money for their children's K-through-12 education. It gives control to the parents.

I support this bill because it allows them to use their own personal money, their after-tax dollars, not the government's money, to give their children the best education possible that they can achieve. Nebraska families, families all across America, deserve an opportunity to save money tax-free for K-through-12 education. Parents, not the government, should decide how to spend their money on their children's education.

Let us stand today with the children, let us stand today with the parents, let us stand today for education in America. Support the Education Savings Act.

REPUBLICANS: THE PARTY OF GESTURE

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

Mr. McDERMOTT. Mr. Speaker, George Will, the eminent editorialist here in Washington D.C., was in Seattle recently, and he said that the majority party in the House of Representatives was tearing themselves apart because they could not deal with substance, they had become the party of gesture.

Now, yesterday was the great day of gesture. The first gesture was, let us tear the Tax Code out by its roots. That was irresponsible. That was followed by a cynical gesture. That is, they could not pass even a commission on campaign reform.

Now, there is some question about whether tobacco is dead. In my view, tobacco is not dead. We will see a cynical gesture out of the Speaker's office late in this session bringing to the floor a bill that says, "Kids, you shouldn't smoke," and then there will be a lot of beating of chests and saying, we passed a bill against tobacco.

The fact is that the money in this place has to be collected before even that cynical gesture will be brought to the floor. We need serious campaign reform. The Speaker ought to bring Shays-Meehan to the floor immediately.

ACHIEVING DREAMS THROUGH EDUCATION

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

Mr. SUNUNU. Mr. Speaker, I rise today to congratulate a very special group of high school students and their teachers taking part in the Capitol Hill robotics competition today in the Rayburn Office Building, a contest that is unlike any other that I know.

This competition brings together students with high technology companies, universities, research laboratories and designers to compete head to head. They design machines that go head to head in competition in front of fans and a worldwide television audience.

In forming this partnership, students are introduced to the concepts of design, mechanics, engineering and materials, and they are encouraged to push further into the worlds of science, technology, mathematics and the opportunities they create.

This unique challenge is the brainchild of the Foundation for the Inspiration and Recognition of Science and Technology First, headed by Mr. Dean Kamen of Manchester, New Hampshire, a city I am proud to represent. The contest has grown from very humble beginnings in a high school gymnasium.

This year, however, the finals will be at Epcot Center, a national presentation in front of thousands of high school fans that understand the value of learning science and technology.

Mr. Speaker, I want to thank all of those that have worked to make this initiative a success, inspiring students and teaching them to achieve their dreams through education.

REJECT THE PRIVATE SCHOOL VOUCHER BILL

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

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on this House to reject the Coverdell voucher bill.

As a former State superintendent in North Carolina's public schools, I know that using taxpayer money to finance private school tuition will not improve education in this country. Taking the taxpayers' money, more than $2 billion, to subsidize private schools at the expense of our neighborhood public schools is wrong.

Instead of this private school voucher bill, I call on this Congress to pass legislation to address the school construction crisis in this country. Our classrooms are bursting at the seams, and we know that the school age population is projected to soar in the next decade. This Congress should do its part to help our States and localities build schools for our children.

I have introduced legislation, H.R. 3652, that will take the revenue from the Coverdell voucher bill and use that school construction money as bonds to help growing communities across this country to meet their needs.

I urge my colleagues to reject this bill and build schools.

SUPPORT THE CHILD CUSTODY PROTECTION ACT

(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, I stand today to support H.R. 3682, the Child Custody Protection Act.

I am a practicing physician. I deliver babies, and what I would want Members of this body and the American public to know is, do you think it is right for a 12-year-old child or a 13-year-old child to be taken across a State line to have an abortion performed when they are incapable of making that decision themselves and without the knowledge of the parents? That is what this bill is all about.

If, in fact, a child is transported across a State line for an abortion to violate the laws of the State in which they reside, then, in fact, it would be a Federal offense.

The real issue is whether or not parents ought to be involved in the reproductive health of their children.

□ 1030

Whether they ought to know, whether they ought to be given information about whether or not their child is seeking help in the midst of a difficulty, some would have us say that the government is the answer to that. I believe the parents are the answer to that. And I believe that we should pass the Child Custody Protection Law.

CONSPIRATORIAL CONGRESS

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

Mr. HINCHEY. Mr. Speaker, increasingly people across this country are referring to this Congress as the "do nothing Congress." But more appropriately it might be referred to as the "conspiratorial Congress." The leadership in this House has conspired with someone in this Congress to kill both antismoking legislation and campaign finance reform.

The somebody yesterday succeeded in killing the antismoking legislation. That job has been done. Now the leadership in this House has got to live up

to its part of the conspiracy and deliver on killing campaign finance reform. They are doing so by proposing a rule on the floor later today with an unprecedented 258 amendments designed to drag this issue out all through the summer into the fall. It is death to campaign finance reform by amendment.

Mr. Speaker, that is the conspiracy that is going on in this Congress. We need Meehan-Shays on the floor. We need real campaign finance reform. Let us have a vote on the real bill.

REPUBLICAN EDUCATION PROPOSAL LONG ON PROMISE AND SHORT ON SUBSTANCE

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

Mr. CUMMINGS. Mr. Speaker, I rise in opposition to the education savings account proposal. Ninety percent of America's children receive a public school education. This proposal is a slap in the face to America's already struggling school systems.

If this measure is adopted, resources will be siphoned away from an already financially needy education system. It does nothing to strengthen one of our most cherished American institutions, public education.

How then can we in good faith suggest a measure to the American public that would primarily benefit wealthy families? Instead, I urge my colleagues to join the effort to build and modernize our public school buildings and administrations.

Instead, let us provide funding for local school districts to hire 100,000 new and qualified teachers to reduce class size. Instead, let us initiate comprehensive reform through the creation of Education Opportunity Zones in both urban and rural areas.

Instead, let us expand access to after-school initiatives through the "21st Century Community Learning Center Program."

Mr. Speaker, the agenda proposed by my Republican colleagues is long on promise and short on substance.

SHAMEFUL MORNING IN AMERICA

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

Mr. ROTHMAN. Mr. Speaker, this is a shameful morning in America. Two of the most important issues facing the American people, anti-tobacco legislation and campaign finance reform, have just been dealt a severe setback by this Republican-controlled Congress.

There was an opportunity yesterday in the Republican-controlled Congress to bring some justice to this debate, to right some wrongs, to invest in the tobacco-free future of our children. But instead, our Republican colleagues killed the tobacco bill.

Here in the Republican-controlled House, the leadership will not even allow debate on tobacco. They do not even plan to bring a bill to the floor. Instead, the Republican leadership in this House continues to spend their time killing campaign finance reform.

Mr. Speaker, I believe strongly in finding bipartisan solutions to America's problems. But how can we solve America's most important problems if the present Republican-controlled Congress continues to kill or strangle debate on issues of such vital importance to America as tobacco and campaign finance reform?

HOUSE SHOULD CONSIDER MEANINGFUL TOBACCO LEGISLATION

(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, last night Big Tobacco did what it does best again when it spent $40 million to kill the comprehensive tobacco legislation. Is that what America's children are worth?

This Saturday, it will be exactly 1 year since the State attorneys general proposed their settlement agreement. Since last June, Congress has done nothing to stem the willful and destructive forces of the tobacco industry.

By selling out to Big Tobacco, the 105th Congress has sat idly by while an astounding 1,095,000 more kids have become addicted to tobacco. One-third of those children, over 300,000, will die from tobacco. These kids are not faceless figures, they are our children.

Mr. Speaker, we cannot be fooled into believing this problem is too complex for the House to address. We can address it. We must address it this year.

One simple solution is to raise the legal purchase age for smoking from 18 to 21. Raising the legal age will squash big tobacco's ransom demands by paving the way for new restrictions on tobacco solicitations on college campuses.

Mr. Speaker, I urge the House to consider meaningful tobacco legislation.

CAMPAIGN FINANCE REFORM

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute.)

Ms. HOOLEY of Oregon. Mr. Speaker, campaign finance reform is the "Little Engine That Could," and it is picking up steam.

Last night, the leadership on the other side of the aisle once again tried to derail this train with a cynical commission bill that was heavy on talk and light on action. When that failed, real reform was pulled from the schedule while the leadership discussed new ways to use parliamentary tricks to stop action on the Meehan-Shays bill.

Mr. Speaker, it does not seem to matter to the leadership on the other side of the aisle that the American people are crying out for reform. It does not seem to matter to the leadership on the other side of the aisle that both Democrats and Republicans want reform now.

It does not seem to matter to the leadership on the other side of the aisle that we were promised an open, honest debate on campaign finance reform. Because when it comes to campaign finance reform, the leadership on the other side of the aisle seems to be all about promises made and promises broken, because it is time to pass real campaign reform now.

CONFERENCE REPORT ON H.R. 2646, EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998

Mr. GOODLING. Mr. Speaker, pursuant to House Resolution 471, I call up the conference report on the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. NEY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, June 15, 1998, at page 12301.)

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GOODLING), and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report on H.R. 2646.

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

There was no objection.

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

Mr. Speaker, I rise in support of the conference report on H.R. 2646, the Coverdell A-plus Education Savings Account legislation. These new education accounts will allow parents, grandparents, friends and others to open an education IRA for a child's educational needs.

The accounts will encourage saving for the future. It moves us from last year's post-secondary account down to a K-through-12 savings account.

Some may ask why am I supporting it since it does not include the testing prohibition language and the answer is very clear. In order to prevent this legislation from getting bogged down in the Senate, we took a different route.

Mr. Speaker, I have a letter of assurance from the Speaker and from the Majority Leader of the Senate which makes it very, very clear that the text of the fiscal year 1999 Labor, Health and Human Services and Education Appropriation bill, and any supplemental or any other such legislation, will not, I quote, will not leave Congress without a testing provision that I find to be satisfactory, which of course means no test, no new national test.

If the appropriation bill, as I said, does not make it to the President's desk, then every effort will be made to include this in a continuing resolution or any other must-pass legislation.

Mr. Speaker, I will include a copy of the letter that I received from the Speaker and the Senate Majority Leader in the RECORD after my remarks.

Mr. Speaker, I thank Speaker GINGRICH and Majority Leader LOTT for their careful attention to this important issue. Senator ASHCROFT and I have labored long and hard to protect against top-down, Washington-based testing. Senator ASHCROFT's amendment and my testing prohibition bill have passed the Senate and the House, respectively, on recorded votes. Members are on record as opposing new Federal testing that is not specifically authorized by Congress. With our leadership's help, we will continue to pursue a ban on funding for the President's testing plan during the appropriations process.

Mr. Speaker, I want to thank the gentleman from Texas (Chairman ARCHER) and the other conferees for their support in retaining the Reading Excellence Act in the final conference report. This act, which the administration now supports, will provide $210 million in funding for new research, teacher training, and individual grants to help improve K-through-12 reading instruction.

The act is the House Republican counterproposal to President Clinton's America Reads program, which aims to send semi-trained volunteers into the classroom. Our reading bill will bolster the reading skills of children by providing more resources, research, and training to teachers, not untrained volunteers.

I also want to state that there is a technical error in the report regarding the participation of private schools in the program. I want to assure my colleagues that we will do everything possible to correct this error.

Mr. Speaker, a few of the other important education provisions included in the final bill are: Incentive grants to schools that produce academic excellence, public schools; incentive grants for States that implement merit pay for teachers; the allowance of the use of Federal dollars to be used for same-gender schools where comparable educational opportunities are offered for students of both sexes; and allowing weapons to be admitted as evidence in internal school disciplinary proceedings.

Finally, I would note that the Gordon block grant proposal was dropped from the bill, again in an effort to protect the bill from getting bogged down in the other body. However, I expect the Committee on Education and the Workforce will be taking action on some block grant initiative in the future.

The letter referred to is as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, June 5, 1998.

Hon. BILL GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

Hon. JOHN ASHCROFT,
U.S. Senate,
Washington, DC.

GENTLEMEN: We are grateful to the two of you for taking the lead on requiring that testing of students remain at the state and local level. The administration's proposal to control student testing at the federal level necessarily would result in government control of the curriculum. Stopping this central government control of student testing is a very important part of our Republican plan to return our schools to the control of the parents and teachers at the local level.

We have worked with you and voted with you to pass a federal testing prohibition bill in the House and to add an amendment to H.R. 2646, the Education Savings Act for Public and Private Schools. Obviously, since this bill is under the threat of a veto by the administration and a filibuster by Senate Democrats, it does not serve our interests to pursue the ban on federal testing in this bill.

Therefore, in order to ensure that Congress will pass and send to the President a ban on federal testing, you have our commitment to support inclusion of your testing prohibition language (H.R. 2846/Amendment 2300 to H.R. 2646) in the base text of the FY1999 Labor, Health and Human Services, and Education Appropriations bill. This language will be maintained through floor action and the conference committee process. You have our commitment that this bill will not leave the Congress without a testing provision that you find to be satisfactory.

If for some reason the Labor/HHS/Education Appropriations bill does not make it to the President's desk, then we will support efforts to include this provision in any Continuing Resolution(s), or other "must pass" legislation in both bodies. We appreciate your leadership over the past months on this most important issue and look forward to continuing to work closely with you.

Sincerely,

TRENT LOTT.
NEWT GINGRICH.

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

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

Mr. Speaker, I am so surprised that my Republican friends on the Committee on Ways and Means, the tax writing committee, have distanced themselves so far from this bill. This is a tax bill. No one challenges that this is a tax bill.

My Republican friends are saying that this code is so complicated, so unfair, that it ought to be pulled up by its roots. And yesterday it said after we get rid of President Clinton, we will get rid of the code, which is good talk before an election. But if the code is so complicated, why would the Republicans add this fertilizer to the roots that they want to pull up?

This is supposed to be an education bill? What does it say? The gentleman from Pennsylvania (Mr. GOODLING), my good friend, never even talked about that. He talked about all of the fine efforts that we have to make to have our kids to read.

Mr. Speaker, let us talk taxes. Let us say what we are going to do for the American parents here. Because the gentleman and I agree that one of the most important things that we have to do to maintain America's competitive position is to educate our young people so that they will be able to meet the challenges of the next century.

So while all America is paused waiting to hear what is the Republican plan to better equip our children, they send a man who knows how to educate our children, who chairs the committee, who really sincerely has proven over the years his dedication for educating our children, they send him to this floor with a tax bill. So let us see the merits of the tax bill.

Mr. Speaker, if an American child has an income less than $150,000, this bill allows an account to be opened in the child's name.

□ 1045

If the child has friends, relatives, corporate figures, or anybody that loves this poor child enough, they can deposit into an account up to $2,000. There is no provision in the bill of what happens if you do not make the $2,000, but that is not important, because the government does not give you the $2,000. The government gives you a tax-free status on the interest. So if you are lucky, you can make, out of this bill, anywhere between $7 a year upwards to $37 a year, depending on your accounting system.

For those who do not want to complicate the code, what does this all mean? It is an educational bill. It means that, out of the $2,000, you can use this money to further the education of your child.

Let us take a closer look at the bill and find out. Is education schools, the renovation of schools, the construction of schools? Does it mean adding teachers to the school? Does it mean buying books and equipment for the school?

No, no, no, Mr. Rangel, this is a tax bill.

What do you expect in a tax bill? Oh, I got it. The bill says that you can deduct and pay for, under this, if you have a tutor for your child, or, if you do not have a tutor, if anyone is teaching your child, or, if you do not have anyone to teach your child, baby-sitting can be considered a part of instructing your child, or it could be transportation for your child to school. You could pay for the school bus. You could pay for the cab. You could pay for the scooter bike to get there.

There are other provisions in this bill that perhaps make a lot more sense, and that is that you can buy books. You can buy tablets. You can buy pens and pencils for your children.

I do not know whether the rest of the family can use these things, because, after all, this tax legislation means that these things have to be bought for the child. So we have to make certain that you have the school equipment on one side and what the parents would use on the other side.

If you want to get a television set, because you can get a lot of education on TVs these days, they have got educational channels, I suspect we may have to get an opinion from the Internal Revenue Service, that is, before you throw that out with the rest of the tax code, to see whether you can buy a TV.

It is disgraceful. It is embarrassing. It is a terrible hoax to play on the American people to have education associated in any way with this bill. Let me tell you one of the reasons is because nobody has given any thought to this thing. Has this thing gone to any committee for consideration? Did we not have hearings on this? Were there teachers coming down saying, for God's sake, pass this so that I can educate the children, or were the parent-teacher associations marching around the Capitol saying pass this education initiative?

My God, even the Republican National Committee is not supporting this. But it is closer to election time. Legislation is more designed for bumper stickers than it is to be passed into law. So the President, in his wisdom, will not allow the Internal Revenue Service to have to add this to the complicated code which my colleagues want to pull up by the roots. The President will spare my colleagues the embarrassment of having to administer this bill.

However, there are bills here that have been passed that make a lot of sense. In my motion to recommit, I am going to ask that we give an opportunity for Republicans and Democrats, liberals and conservatives, to do something constructive; and that is to ask the committee to go back in and to commit themselves, not to tax laws, but to education, to rebuild our schools, to vitalize our schools.

We need $172 billion for the new schools and to bring back our decrepit schools. So let this be the last time before election that we try to get bumper-sticker type of legislation.

When you say education, look somewhere and, instead of just bringing the distinguished gentleman here who has dedicated his life to education, if it is going to be taxes, bring the chairman from the Joint Committee on Taxation, and let us talk about this bill and how effective it is going to be.

Other than that, I want to see whether anybody else wants to stand up and support this.

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

Mr. GOODLING. Mr. Speaker, I yield what time he may consume to the gentleman from Pennsylvania (Mr. ENGLISH) from the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I am delighted with the opportunity to appear here on behalf of this conference report. Let me tell you why I think this is important. I believe very strongly that families who save to put their kids through school, whether it is primary, secondary school, or college, whether it is a private institution or a public institution, should be able to save without having those savings taxed.

It is not a big tax break. It is a very important principle that we are beginning to enshrine in the law, and this conference committee report moves strongly forward in that direction.

I believe anyone in this chamber who shares that principle and shares that belief should be prepared to support this legislation. It is perfectly consistent, I might add, with tax reform, because this is just the beginning of the kind of tax change and tax incentive that tax reform should enshrine more broadly in the tax code.

So we have heard some rhetoric here today from the opposition to this legislation: disgraceful, embarrassing, fertilizer. Mr. Speaker, I am going to leave the fertilizer on the other side of the aisle, and, instead, rise in strong support of this conference committee report that will promote education savings and promote education excellence.

This conference agreement will allow tax-free expenditures from education IRAs for elementary and secondary school expenses as well as higher education costs. The agreement would increase the maximum annual amount of contributions for education IRAs to $2,000, which is what it should have been in the first place.

One extremely important provision in this conference report addresses the need for tax relief for prepaid tuition programs, an issue that I have advocated since I came to this Congress. I believe that people should be able to use State prepaid tuition programs for postsecondary education without a tax penalty; that we move in the direction of liberalizing the tax treatment of those programs.

This legislation will also allow both the contributions and earnings on distributions from qualified State tuition programs to be tax free, provided funds are used for higher education purposes.

In addition, private colleges or a group of private colleges may ultimately offer similar prepaid tuition programs. I have long advocated the equal treatment for private colleges and universities. While we still have a ways to go to establish tax equity for these schools, this recognition puts a mark in the law moving in that direction.

There are several other important provisions in this conference report, including the extension of section 127, employer provided education assistance through 2002. That in itself makes this legislation worth voting for, even if you do not agree or are not enthusiastic with all of the other provisions.

Mr. Speaker, this is important legislation. It may be disgraceful or embarrassing to the other side of the aisle to have this kind of bill coming out under Republican authorship. I can tell you this, I think this moves us in the right direction of making higher education more affordable, of making basic education more easy to save for with a better tax treatment.

We are moving in the right direction. I think it will be instructive to see how many people in the end stand up against this legislation.

Mr. Speaker, I appreciate the chance to participate in this debate.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, it seems that the leadership of this House has taken another poll; and in that poll, they discovered that the people of this country are concerned about the quality of education that their young family members are getting. So they come up with this brilliant idea to provide a tiny little tax cut for private schools.

This tiny little tax cut would amount to somewhere in the neighborhood of between $5 and $10 a year to families in my district. That is not even enough to buy a single textbook. That is how meaningless and disgraceful this piece of legislation is. Instead of doing what we need to do, this offers a false hope to people.

We know what is wrong with education in our country. We know that we need more teachers. This bill does not do a thing to provide more teachers. We know that we need smaller class sizes. This legislation does not do a thing to provide us with smaller class sizes.

We know that we need an infrastructure improvement program to build classrooms and to upgrade schools and existing classrooms. So many of the

classrooms, most of them, are so old in this country, they cannot even be wired for the Internet. They need a complete overhaul in the wiring of the school system. This is what we need, and this is what the ranking member of the Committee on Ways and Means is offering us in his motion to recommit.

What this Congress ought to be doing is investing appropriate resources to reduce class sizes, to educate more teachers, and, most of all, to build the classrooms and build the schools and upgrade the system so that we can modernize our schools, modernize our classrooms so that we can modernize education in America. That is what the motion to recommit would do.

The bill before us would do none of that. That is why we need to vote for the motion to recommit and defeat the legislation.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I want to thank my friend from Pennsylvania for yielding this time to me.

Mr. Speaker, I rise in strong support of this conference report. What is terrific about this conference report is it not only helps public schools, but it also helps private and parochial schools in the district that I represent.

I represent the south suburbs of Chicago, and we are fortunate to have a very strong Catholic school system in Joliet in the south suburbs as well as other faith-based and also public schools. This legislation helps both. That is what is really great about this legislation. We are helping all sorts of families, and we are helping all sorts of parents who make different choices for their kids. I realize there is some that do not want to do that, and that is why they oppose this bill.

As I look at what you can do if you set aside $2,000 a year in this education savings account, I think of the parents and public school kids who are faced with fees for textbooks and faced with whether they need to buy a laptop computer so their son or daughter can do better in a public school.

Of course, as a result of these savings accounts, they have a mechanism where they can set aside money just like an IRA and use that to meet these costs of local, public education. Of course, the kids that go to the Catholic school system in Joliet would benefit as well. That is good.

We raised those contribution limits from the current $500 to $2,000, allowing the family to set aside up to $10,000 by the time a child is ready to enter first grade.

We are concerned about public education. This legislation also makes a pretty good commitment. Right now, only 70 cents on the dollar of every Federal education dollar that we appropriate actually reaches the classroom. That means almost 30 cents of every education dollar that we appropriate here in Washington is consumed by the bureaucracy in Washington before it reaches the classroom.

This legislation makes a commitment to raise that to 95 cents on the dollar so that the money that we spend and provide to help public education back home actually reaches the classroom. That is a pretty important goal.

I also look at another provision which was also, I think, pretty significant. This legislation allows private colleges and universities to offer prepaid tuition programs that will benefit the students that go to Olivet Nazarene University in Kankakee County as well as Saint Francis and Lewis.

This is good legislation. It helps public schools, and it helps private schools. It deserves bipartisan support.

□ 1100

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I thank the gentleman from New York for yielding me this time. I rise in strong opposition to the conference report.

Today, we are being treated to yet another episode in the continuing Republican saga of tax relief for the rich. It is also known as Robin Hood in reverse; take from the poor to give to the rich. When we look behind all the rhetoric, what we find is that the people who benefit from this bill are not everyday citizens. They only get about $7 a year out of this bill. The people who benefit are, again, the wealthiest 20 percent of Americans.

There is nothing wrong with private schools. There is nothing wrong with savings accounts. I think it is a great idea. What is wrong is when we take tax dollars away from public education, and that is what this bill does. Tax relief for the rich.

We have some problems in education. If the Republicans were serious about dealing with education, they would look inside our public school systems. Ninety percent of the students in America go to public schools. Sixty percent of Americans think we here in Congress ought to be spending more money on public education. It would seem to me that what we ought to be doing is putting our money where the students are: in public education.

How should we do this? There is a Democratic alternative that says, number one, we need smaller classes in grades 1 through 3. We need to reduce class size by hiring more teachers. I think that is a good idea. We need to build our infrastructure. We need to repair our schools. We have schools that have asbestos problems. We have schools with leaking roofs. About a third of all the schools in America have major repair problems that need to be addressed, not by some savings account gimmick but by a serious commitment of Federal funds for public education.

We also need to invest in our public schools by enabling them to have access to the Internet. Fifty percent of our schools are not capable of being wired to the Internet because they cannot accommodate the new technology. We need to address that infrastructure concern.

So when we talk about aid to education, there are two ways to go. We can go the way of tax relief for the rich or we can look at a serious commitment to repairing our education infrastructure. That is the approach the Democrats embody in their motion to recommit.

I urge rejection of the conference report. I urge adoption of the motion to recommit.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ARCHER), the chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding me this time.

I am somehow puzzled over and over again as I listen to comments from the other side of the aisle, and I just listened to our previous colleague say that this takes dollars away from public education. That is totally, totally false, and he must know it if he has read the bill. Not $1 in this bill is taken away from public education. But we listen to this rhetoric spoken over and over again, on issue after issue, and I am sure that many Members might believe some of it. It just happens to not be true.

What this bill does do is give parents an opportunity to save for their children's education, which they already have the opportunity to do so, and spend that money on college education. Those programs have not destroyed the public universities of this country, nor have they taken $1 away from the public universities to put into private universities. But for some reason, the Members on the other side of the aisle want to make people believe that what we are doing here today will destroy public elementary and secondary education.

And nothing could be farther from the truth because all of the evaluations of this bill are that the savings that parents will put freely into accounts for their children will be used 75 percent for children in public education and only 25 percent for children who go to private schools. Now, that is the Congressional Budget Office's analysis of this bill.

So let us get the facts straight. These savings accounts can be used to help children with disabilities, whether they are in public school or in private school, for their special needs. These savings can be used for tutors to help children in public schools, who desperately need it, in those schools that are not attaining the same levels as we see in many other schools.

And, by the way, we should not forget that most American children are getting an outstanding education. And thanks to local school boards, good teachers and smart kids, many Americans receive a world class education. And that is one of the reasons why our Nation is the envy of the world, and we should all be proud of it. But, yes, it is true that there are other schools that are not attaining that same level and we need to be concerned about it.

But when I listen to the rhetoric from the other side of the aisle, I wonder, what am I really hearing? Am I hearing rhetoric that has been prompted by large, powerful special interests or by a concern for the children of this country? I wonder. Why do they not want choice for children in elementary and secondary education? Oh, they are happy to give it in college. Why do they not want it for children in elementary and secondary education? I wonder. Why do they not want a higher degree of personal responsibility and local control of our elementary and secondary schools, rather than having greater and greater Federal intrusion which ultimately will take away that flexibility? Again, I wonder.

This is a good bill. It permits parents to do what we already permit, savings for college education, and gives those parents the opportunity to also use that funding, where necessary, to help their children in elementary and secondary education get a better opportunity and end up being better equipped to go out into this world.

Despite how helpful this plan is for children's education, I know President Clinton is under intense pressure from special interests to oppose our bipartisan plan. And I say to the President, "Mr. President, do not veto this bill. Do not put the needs of special interests ahead of the needs of our children and our schools. If you support Federal money through HOPE scholarships for public and private universities, why would you oppose Federal money for public and private secondary and elementary schools?"

And if HOPE scholarships do not destroy public universities, why would educational savings accounts harm public high schools? They will not. They simply will not. But they will give another tool, not a complete answer to all of educational problems, but another tool to help parents secure a better education for their children. And that is why many Democrats, including Senator TORRICELLI and former Congressman Floyd Flake support this bill, because it is good for our children.

This legislation also expands the definition of "qualified tuition program" under the present law provision granting qualified State prepaid tuition plans favorable tax treatment to prepaid tuition plan sponsored by private educational institutions. Because of revenue constraints, we were not able to make this change effective immediately. However, in making this change, no inference was intended as to the treatment of certain prepaid tuition plans sponsored by private institutions under present law.

I urge a vote against the motion to recommit and a vote for this conference report, which will begin a pattern of helping to develop better education for our children.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume to agree with the distinguished chairman of the Committee on Ways and Means, and say that he is right, that the cost of this bill is not taking away from appropriations for the public schools. This is not an education bill. This is a tax bill, and he is right, it does give tax cuts to those people that have enough money to deposit in a bank account.

And I have to admit that the chairman is right when he says that we are driven by special interests. That special interest are those very special children who need so badly to get a decent education. And so, once again, I agree with my chairman. But perhaps we do not end up at the same place, at the same time, with the same bill.

Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I thank the gentleman for yielding me this time.

To my dear friend, the chairman of the Ways and Means, I would remind him, as he talks about special interests, that it was yesterday in the United States Senate where our majority leader in the Senate and others rejected a tobacco bill that was sponsored by Mr. MCCAIN and which many Democrats and Republicans had worked so tirelessly on. It was special interests, namely cigarette makers, that caused us to reject that bill and might cause us to retard public health efforts on behalf of children in this Nation.

But I rise in opposition to this conference report. I would agree with my colleagues on both sides of the aisle that reform is needed sorely in our public school system, in our education system in America. But if we listen to educators and we listen to parents and we listen to students, they talk tirelessly about the need to have more teachers in schools, about reducing class sizes.

I come from a district where the average class size is 35 pupils per teacher. I come from a district where, in the final 2 weeks of school, 3 dozen schools had to close early because they had no air-conditioning. The only reason they stayed open for half the day was to still qualify for funding, Mr. Speaker, for state funding for their school system for the following year.

Without a doubt, all we are talking about as Democrats will not solve all the problems. But, clearly, savings accounts will not do it alone. Thomas Jefferson said that any Nation which expects to be free and ignorant at the same time, expects what never was and never will be.

Let us work together, Democrats and Republicans, and do what is right for our kids, do what is right for parents, do what is right for America.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, last year the President signed with great fanfare the Taxpayer Relief Act, which allowed parents to invest up to $500 of their own money in education savings accounts to help send their kids to the college of their choice.

Now we are asking the President to give these same parents the ability to use that same money for elementary and high school expenses as well. And this bill gives parents, grandparents and friends the ability to invest up to $2,000 to send their children to the best schools available, from kindergarten through college.

I do not know about the President, but we should want every child to succeed. We ought to give him that chance. It is the American way. With this additional flexibility, parents can send their children to the safest, most academically challenging schools in America. But the President says he is going to veto this pro-family, pro-education bill because he cares more about the teachers' unions than the children stuck in bad schools.

This bill has strong bipartisan support and it is time for our President to give every child in America the same chance to succeed that his daughter was given. We must pass this conference report.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY), who has dedicated her political career to improving the quality of education for our young people.

Mrs. LOWEY. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), our leader on this important issue, for yielding me this time. And I rise in strong opposition to this conference report and in support of the school modernization motion.

My colleagues, just come visit some of the schools in our communities. The classrooms are overflowing and the students are trying to learn in hallways. Is Congress addressing this crisis? No. The leadership of this Congress has chosen, instead, to push through a flawed bill that will please their favorite special interests but do practically nothing for the majority of American families. The solution is not an arcane tax change, it is investing in education.

Last year, 120 Members of this Congress showed their commitment to America's children by cosponsoring the Partnership to Rebuild America's

Schools. This session we have a similar proposal, which the gentleman from New York (Mr. RANGEL) and I and others introduced, called the Public School Modernization Act. Our program will make interest-free loans available to school districts across the country through the Tax Code. Under the bill, school districts will be able to issue special bonds at no interest to fund the construction or renovation of school buildings, and the Federal Government will pay the interest on these bonds.

My colleagues, we simply cannot ignore the poor physical conditions of our schools any longer. The GAO found that $112 billion is needed nationwide to just bring our schools into adequate condition. Rural, suburban and urban districts all face serious problems. It is common sense. Children cannot learn in severely overcrowded schools and when classroom walls are falling down around them.

In New York, where the gentleman from New York (Mr. RANGEL) and I come from, a survey my office conducted found that 25 percent, one in four, of New York City public schools hold classes in bathrooms, locker rooms, hallways, cafeterias and storage areas. Almost half of our school buildings have roofs, floors and walls in need of repair.

A report by the New York City Commission on School Facilities revealed some startling realities: nearly half of the City's school children are taught in severely overcrowded classrooms. Two hundred and seventy schools need new roofs. Over half of the City's schools are more than 55 years old, and approximately one-fourth still use coal burning boilers.

Quite recently, Congress overwhelmingly passed a $200 billion bill to build and maintain our nation's highways. I support this investment. But shouldn't we also be investing in the future of our children? Regrettably, the Republican leadership has time and time again refused to support efforts to rebuild our schools.

This bill is the wrong approach. Investing in our schools is the right one. Support the school modernization motion. It is time that we come to the aid of our schools and our children.

Mr. Speaker, I urge my colleagues to reject this bill and support the motion to recommit.

□ 1115

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. BUNNING), a member of the Committee on Ways and Means.

Mr. BUNNING. Mr. Speaker, I rise in strong support of this conference report for the Educational Savings Act.

I am especially gratified that the report includes $1.5 billion in tax cuts for students enrolled in state prepaid tuition plans. And I thank my chairman the gentleman from Texas (Mr. ARCHER) for his help with this.

Last year, in the Balanced Budget Act, we cut taxes by $2 billion for these families. Now this report wisely gives further tax relief to those families who are investing for their children's future.

Unfortunately, it sounds like the President is going to veto this bill. That would be a real shame, Mr. President. These tax cuts would help over 3,000 Kentucky students to attend college. Their families have already invested over $7 million in our state prepaid tuition plan, and I think we need to do what we can to help them.

Mr. Speaker, I urge a vote for the conference report and for these students who need our help.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding.

I, too, rise in opposition to the conference report, the so-called education savings account legislation. This bill is simply private school vouchers by another name. Who do we think is going to be taking advantage of these accounts? Not the majority of our parents, who have little left after their monthly expenses. These IRA type accounts will obviously favor privileged families who are more likely to have more money to put into the account.

This bill will be an encouragement for well-to-do families to send their children to private schools, offering taxpayer financial subsidies for private schools, while doing nothing, nothing, Mr. Speaker, to improve America's public schools.

This bill diverts urgently needed funds from our public schools. Opposite to the thrust of this legislation, we should be passing Federal legislation to direct our limited resources into public schools, where over 90 percent of American children are educated.

Instead of subsidized education for the wealthy, we need to put our resources toward reducing class size in our public schools, modernizing and refurbishing our public schools and improving teacher training for our public schools.

As Julian Bond, Chairman of the Board of the NAACP, said recently, we should not take Federal dollars out of public education just when it needs help the most. This bill is just the latest in a long series of attempts to benefit the wealthy and to do nothing to help our middle class and lower income families.

As a matter of conscience and in support of the vast majority of Americans and their children, I urge my colleagues to oppose this ill-conceived legislation.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, one does not have to be a rocket scientist, one does not have to be an economics professor to know that many families today are struggling to pay their child's college education. Both sides of the aisle would agree with that.

In fact, college tuitions have increased 234 percent since 1980. Now, this prices many families out of a college education. Others have had to go deep in debt to send their children to college.

As a matter of fact, parents and children attending college have borrowed more money for college education in the 1990's than in the 1960's, 1970's, and 1980's.

Now, I was an elected member of the Alabama State School Board, and we were faced with this problem in Alabama, one of our poorer states, people unable to send their children to college. And we were one of the first 3 states to devise a prepaid tuition plan where parents could put away a little money each month and when their children reached college age they could take that fund and then pay for their college tuition.

I am glad to say today that 43,000 Alabama children are enrolled in our prepaid college tuition plan. 18 other states have made similar moves and have prepaid tuition plans.

We have heard about Kentucky from the gentleman from Kentucky. And it is my understanding that most other states expect to start their own plans in the near future and these plans will help make college a reality for many, many children.

It is because of that that I rise today in strong support for this conference report, for this conference report is good news for all those families and all those children enrolled in those prepaid tax plans.

There was bipartisan support for this provision, a provision which I introduced originally in this Congress 2 years ago and again last year and has been included in the conference report which makes savings and state prepaid tuition plans tax free. Can we all not agree that no tax makes less sense than one that punishes families for saving for their children's college education?

We should be rewarding families who save for their child's college education, not penalizing then. The current law penalizes them. When they draw that money out, they have to pay taxes on it. This conference report changes that.

For that reason, I congratulate the conferees and I urge my colleagues to support this legislation.

Mr. RANGEL. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to the conference report and in support of the motion to recommit. There is no question that parents have the right to choose the best possible education for their children. Unfortunately, this bill does not accomplish this goal.

Instead of opening doors to a better education for all of America's working families, this bill primarily benefits a small percentage of families who could afford to save as much as $2,000 a year and send their children to private schools. To meet the needs of the majority of American children, we do not need another tax shelter for the wealthier Americans, what we need is to invest our scarce Federal resources in our public schools, where over 90 percent of American children are taught.

Our Nation's public schools need funds for books, computers, and well-trained teachers and they critically need funding for repairs and school construction in urban and rural communities where our public schools are overcrowded and literally falling apart.

According to the American Society of Civil Engineers, our public schools are in worse shape today than any part of our Nation's infrastructure. And based on current growth, it is estimated that we will need to build 6,000 new schools over the next 10 years just to maintain current class size.

The motion of the gentleman from New York (Mr. RANGEL) addresses this crisis by creating a tax credit to help state and localities build new schools and make desperately needed repairs. Investing in our public schools benefits all of America's children, not just a few.

I ask my colleagues to defeat the conference report.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me say from the outset, what the American people want and need for their children and what this Congress wants and needs for the children of America with respect to education is exactly the same thing. We need to have the most effective public school system in the world.

I believe that it was not very many years ago when we could stand up proudly in this Nation and say that. I believe when I was a child going through public schools that this Nation could stand up and say before the world, we have the best, most accessible public education for the children of America than any nation in the history of the world. I believe at that time in America we were in fact the envy of the world for what we were able to do and were in fact doing in the education of our children.

But something has changed, Mr. Speaker. Something has changed, and it is a matter of enormous concern and heartbreak to the American people. We cannot say that anymore. And our children are paying the cost. We are not concerned here with children who fail in school so much as we are concerned with schools that are failing America.

And while throughout America we still have some fine examples of good schools, public and private, where the parents are pleased and the children are proud and the teachers are caring, we need to cherish them and we need to have a way to get them to be more a model for the other schools.

Because tragically, Mr. Speaker, we have schools in America that are failing the children. We have got to ask ourselves what is missing here. Why is it that some schools can succeed and so many other schools can fail, sometimes a school with a lesser budget can succeed? It is not always about money. I think it is about something more important than money. I think it is about a lot of things.

This bill that we have before us today is about one of the things. And if anybody thought, and certainly I do not, that this was the entire solution to the problem, they would be naive. But part of the solution is accountability. When schools are accountable to parents, schools do better.

How do parents make a school accountable to them? Well, first through local control. When the parents in their local community elect a school board and hold a school board accountable, as a school is held accountable by the school board, it works. But also by direct control.

When the school administrator and the teachers know that the parents can and will and have the resources to pick up their child, take the child from the school that is letting the child down and put that child into school where the child will do better, it perks up their attention. They realize the need.

One principal not too far from Washington, D.C., when faced with parents that had choices and were using those choices to move their children, said very clearly, "we have got to do better or we will lose the children."

Now, what does this bill say? It says to some of those parents, if you have the means to save your own money so that you can in your own savings put together a scholarship opportunity for your child and move your child, you should get a tax break for that, the earnings from that savings should be tax exempt.

We have had other bills on this floor, bills that were equally resistant, that said to some parents of low incomes, if you do not have those means, we will provide with you scholarships. They, too, were resistant.

We are not here to defend the public schools. Of course, we know they are all precious. But we are here to improve the public schools. We are here to give them the opportunity to see the challenge that lies before them and respond to it in a meaningful way by emphasizing to them through the actions of the parents that they must be accountable to the parents and the service in the lives of the children.

Why should we trust the parents, Mr. Speaker? Very simple. The parents are and will be and always have been the first best most dedicated teacher in that young child's life. Nobody cares more. Nobody lives more with the consequences of that child's education other than the child himself. And when the parents are able to affirm that, the schools will respond to it and we will again some day have the best public schools in the world, what our children deserve.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman from New York for yielding.

Mr. Speaker, I rise today to call on this House to reject the conference report on the latest voucher bill.

□ 1130

Make no mistake about it. This is a bad bill. We have heard talk about all kinds of things. It really is about a voucher bill and it is not about the good things that happen in our public schools. There are a lot of good schools. I am so tired of coming and hearing people bad-mouth our teachers and bad-mouth our schools. That is why I ran to come here, and I really thought I would see the rhetoric change. I am sorry to say that from some in this body, it has not changed.

As a former elected chief of North Carolina's public schools, I know that using taxpayers' money to finance private school tuition is the wrong way to improve public schools in this country. It will absolutely not do it. This bill takes the taxpayers' money, almost $2 billion, to subsidize private schools at the expense of our neighborhood public schools who badly need the money, and that is wrong.

I call on this Congress to pass legislation to address the school construction crisis in this country. I will not go over the details. My colleagues have already heard them. I have introduced H.R. 3652. There are other bills that will provide revenue from this voucher bill to be used for school construction bonds in some of the fastest growing and most critically needed communities in this country.

If we want to help public schools, do something about it and quit talking about it and put the money out there to help children and not to help a select few but help all of them because all of them are part of this great country we call America.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me this time.

Mr. Speaker, let me just state out front that I have heard repeatedly that

this is going to take money away from public education. I just urge those who are curious to read the bill and determine and find out for themselves that this does not take money away from public education. Indeed what it does is serve to improve education. Clearly there has been no stronger fighter in my mind than I am in this Congress, and before this I was elected to the New York City Council and served on the Education Committee and continually fought to improve education for the people of my community in Staten Island and Brooklyn and across this country.

In the last couple of weeks, we have seen, I guess, a critical point in terms of discussing the future of education, and, if you will, a line in the sand has been drawn. Our majority leader the gentleman from Texas (Mr. ARMEY) introduced a bill to provide, as he stated earlier, to the low-income people of Washington, D.C., 2,000 scholarships. There were parents who prayed that they would actually be able to send their child to a school of their choice. This House passed that legislation. It was quietly vetoed by the President, thereby depriving some of those most vulnerable out there the opportunity to send their kid to a school of their choice.

Now we have another great opportunity before us today. Here we again continue to question the common sense of ordinary Americans. We just throw it out there, folks. Is it the folks here in Washington or the folks in your local towns, whether it is Capitol Hill or your State capital or city hall that is in the best position to determine where to send your child? Or is it the parents of America? All this bill does is allows the parents the opportunity that they have been deprived of for far too many years to send their child to the school of their choice so that they can invest in their most precious resource, their children.

If we really believe in the future of this country and we believe in education, we will pass this conference report.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, the conference report before us is what the Republican agenda for education boils down to: providing education tax credits for a limited population of parents who chose and have the money to send their children to private schools versus helping the 90 percent of the students that are in public schools today, 90 percent, which is where the educational future of the Nation will be determined.

Public schools face much pressure from the growing rates of enrollment, large class size, increased violence and finding qualified teachers. As they face all of these pressures, we need to make sure they have the capability to impart knowledge and learning skills to our children. That is not what this bill does. I do not understand how taking money away from public schools provides for accountability. With limited resources, teaching children is not easy to do. We have an obligation to see that the schools do their job, but this bill certainly does not do it.

In New Jersey, my home State, we have schools in crucial need of modernization as reported by the New Jersey Supreme Court. I have visited public schools throughout the State. I have seen the crumbling ceilings, the exposed pipes, the fading blackboards, the lack of ability to connect to the new technology that will make us competitive in the next century. These tours indicate that we simply cannot ignore the needs of our students any longer when it comes to the poor physical condition of our schools.

New Jersey public elementary and secondary schools will see an increase of over 100,000 students in the next 10 years requiring over 4,000 more new classrooms or else we will have even greater class sizes. We know that over a thousand of our schools are over 50 years old, many more from the turn of the century, and these statistics are replicated across the country. This bill does nothing to meet the needs of those schools or those students.

Let us vote for the Rangel motion to recommit so we can help our public schools, where 90 percent of the public's interest and the educational future of the Nation will be served. That is the way we should be voting. Vote for the motion to recommit.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, is it not a little bit ironic that yesterday the House voted to repeal the Federal income tax code and yet today we are going to vote on legislation to create yet another loophole in the income tax code. We are kind of going in the wrong direction.

My dear colleague from Texas, the majority leader, I think put it best about this legislation when he said, "If you have the means." That is what this is about. This legislation is not going to help middle-class families. It is not going to help families that are struggling, that may be in difficult school districts. It is going to help families that have the means to set aside $2,000 a year which they are going to have to let sit for a while until they get enough income to pay for private schools. This is a band-aid approach to a real problem.

The gentleman from New York has an approach to try and address the school problem for a larger number of American students and that is the approach we ought to be taking. This is nothing but a tax break for people who are not asking for it and who do not need it, and we do not even know how we are going to pay for it. I am afraid this is a precursor to what we are going to see with Social Security and everything else, is if you have the means, you are okay but if you do not, you are on your own.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to the conference report. This bill is yet another attempt by the Republican leadership to gut public education and tear desperately needed dollars away from our public schools. The legislation will do nothing to improve the education of millions of middle- and working-class kids in this country. The average middle-class family would find itself with a measly $10 benefit a year, not nearly enough for a working family to afford the cost of a private high school.

We need to focus on improving the schools that serve 90 percent of America's children, the public schools. We need to invest in technology and computers for our classrooms. That is what the motion to recommit by the gentleman from New York (Mr. RANGEL) does. If we are serious about improving education in our country, we will reject the dangerous bill before us. Passing this bill is like waving a white flag. Passing the bill means giving up on public education, abandoning millions of children who only want that opportunity to succeed. Having a chance in America means having access to a first-rate education.

Let us not turn our backs on these children. Let us deal with legislation that helps America's children, not just a token few. Reject the conference report. Vote for the motion to recommit.

Mr. RANGEL. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. GEPHARDT), our distinguished minority leader.

Mr. GEPHARDT. Mr. Speaker, I urge a "no" vote on the conference report, and I urge an "aye" vote on the Rangel motion to recommit. I believe with all my heart that this issue, education and child rearing, is the most important issue that faces us as a people. We have never needed more in our history to have well-educated, mentally capable young people.

In my home State of Missouri, the only issue that really dominated the State legislature was how we could go from 30,000 to 60,000 prison cells over the next 5 years, a symbol of failure of our child rearing and our education system in this country.

I am tough on law and order and so are my constituents. But I say to my constituents, you cannot afford what we are doing. We cannot afford to hold a million and a half people in prison, to carry them, to keep them because they are unsafe to have in our society. We

also know that if we raise children correctly, they will not get into trouble. They will not be dysfunctional citizens. But we also know our society has changed dramatically. People are not at home to raise children as they once were. That is a fact of life. We are not going to change that. And so we have to put the investment into education so that children are raised correctly.

What this bill misses entirely is that there is a whole revolution going on out in public schools to fix the schools to meet the need. In my district, I have a school in the inner city that is getting great results. The kids get great grades. I went there and I asked them how they are doing it. They said, we have parents as first teachers in the public school to teach parents how to be better parents and how to raise children. They have preschool in the public school. They have after-school in the public school, so children are engaged even at age zero, age 6 months, age 1 year, age 3 years in constructive, professionally run activities so they can be productive citizens when they come out of the education process.

Does this bill support that effort that is going on in Shepherd School in my district? I daresay not. What this bill offers is $7 a year to the families that are sending those kids to Shepherd School. No, what Shepherd School needs is not this bill. This is a silly bill. It is a frivolous bill. It is not serious about public education. Seven dollars a year to families in my district fighting to get their kids a good education is frivolous.

The Rangel substitute would offer real help to the people at Shepherd School. What do they need? They need bigger classrooms. They need a competent building. They need computers in the classrooms. They need help, real help. Listen to Paul Vallas, CEO of the Chicago Public Schools. This is somebody that is on the line every day. Mayor Daley in Chicago said, "Give me the schools, give me the responsibility, and we will fix them," and he is fixing them. He put his best person on this job. Here is what Paul Vallas says. He says this bill, the Coverdell bill, is really designed to give more affluent people compensation for decisions they already made to go private. That is all it is. This does not help public education. It does not help the people that are out there in the crucible of the fight to fix public education. It helps just a few people who have already chosen to send their kids to private schools. What a shame this is. What a missed opportunity this is.

I urge Members to vote for the Rangel substitute, which gives real, tangible help to the real revolution that is going on out there in the real world to fix the public schools so all of our kids are productive citizens, and vote against a frivolous, unserious, ridiculous piece of legislation that does nothing but help the privileged few.

□ 1245

Mr. GOODLING. Mr. Speaker, I yield myself the balance of the time.

First of all, I want to make sure everybody understands it does not take 1 penny from public education. If it did, I would not support it.

But secondly, all these people who are down here now crying about how much we need, how much help we need to repair schools, to reduce class size.

For 20 years I sat here in the minority and said, "Would you put your money where your mouth is on your one mandate, your curriculum mandate for special education where you would get millions and millions of dollars into school districts, where the pairs are needed," and I could not get 1 penny from that majority.

Now they talk about trying to do something to help public schools. Well, let me tell them, if we put our 40 percent of excess costs into special education, which is where the mouth was, but the money was not put there, Los Angeles school district would get an additional $74 million. New York City would get about $50 million. Chicago would get $40 million. Just in 1 year, just in 1 year, and they talk about coming here, telling us they are doing a dispirited kind of thing. They are not helping public education.

I have tried, I have tried, I have tried to get them to put their money where their mouth was for 20 years, and then we would not have the problems we have with school districts where buildings are falling down and where classes are way too large.

So I would remind everyone there is not 1 penny going to public schools in this bill except in reading excellence. They talk about helping schoolchildren. If 40 percent of the children are not doing well in reading in public schools by the end of third grade, what do we do about it? Not what the President wanted, but he got an agreement with the Committee on the Budget that said that much money would be put there. We rewrote the bill in a bipartisan manner to help those children because, if 40 percent are not doing well, obviously we have to start with teacher training. Obviously we have to deal with the lack of ability of the parent to help the child become reading ready. Obviously we have to deal with reading readiness programs before the child comes to school.

So let us put our money where our mouth is, and then we can solve all of those problems back in the local level because the millions those districts that need it the most would get is just unbelievable, and that is just in 1 year.

So I would encourage my colleagues, this is one step, and the second step is to do the funding in the special ed mandate that we promised we would do, and then we can make the changes, not by having more programs. That is what we have done those 20 years. Everybody came with another program. They watered them down to the point where we got pennies here, pennies there if there was someone that could fill out the appropriate papers in order to get the grant in the first place. Nobody ever said anything about quality. Nobody ever said anything about the problems that they had back in the local districts. We said we know from the Federal level this is the way it should be done, do it, and send them pennies to do it.

So let us start with this little piece today and let us really work on how to help local school districts take care of the needs they have as far as buildings are concerned, as far as reading readiness is concerned, as far as class size is concerned. They can do it, if we give them the money that we promised them 25 years ago.

So I would ask all to support this legislation, and then let us move forward to do the things that have to be done to make sure those public schools that may not be doing as well as they should be, and I will be the first to say that most public schools are doing well, but those that are not, we can give them the kind of help that they need.

Mr. PAUL. Mr. Speaker, I appreciate the opportunity to explain why I oppose the Conference Report of the Parent and Student Saving Account Act (H.R. 2646). This, despite having been an original cosponsor, and having been quite active in seeking support, of the original House bill. I remain a strong supporter of education IRAs, which are a good first step toward restoring parental control of education by ensuring parents can devote more of their resources to their children's education. However, this bill also raises taxes on businesses and expands federal control of education. I cannot vote for a bill that raises taxes and increases federal power, no matter what other salutary provisions are in the legislation.

I certainly support the provision allowing parents to contribute up to $2,000 a year to education savings accounts without having to pay taxes on the interest earned by that account. This provision expands parental control of education, the key to true education reform as well as one of the hallmarks of a free society. Today the right of parents to educate their children as they see fit is increasingly eroded by the excessive tax burden imposed on America's families by Congress. Congress then rubs salt in the wounds of America's hardworking, taxpaying parents by using their tax dollars to fund an unconstitutional education bureaucracy that all too often uses its illegitimate authority over education to undermine the values of these same parents!

I also support the provisions extending the exclusion of funds received from qualified state tuition programs, and excluding monies received from an employer to pay for an employee's continuing education from gross income. Both of these provisions allow Americans to spend more of their resources on education, rather than hand their hard-earned money over to the taxman.

Returning control over educational resources to the American people ought to be

among Congress' top priorities. In fact, one of my objections to this bill is that is does not go nearly far enough in returning education dollars to parents. This is largely because the deposit to an education IRA must consist of after-tax dollars. Mr. Speaker, education IRAs would be so much more beneficial if parents could make their deposits with pretax dollars. Furthermore, allowing contributions to be made from pretax dollars would provide a greater incentive for citizens to contribute to education IRAs for others' underprivileged children.

Furthermore, education IRAs are not the most effective means of returning education resources to the American people. A much more effective way of promoting parental choice in education is through education tax credits, such as those contained in H.R. 1816, the Family Education Freedom Act, which provides a tax credit of up to $3,000 for elementary and secondary expenses incurred in educating a child at public, private, parochial, or home schools. Tax credits allow parents to get back the money they spent on education, in fact, large tax credits will remove large numbers of families from the tax roles!

Therefore, I would still support this bill as a good first (albeit small) step toward restoring parental control of education if it did not further expand the federal control of education and raise taxes on American businesses!

In order to offset the so-called "cost to government" (revenue loss) H.R. 2646 alters the rules by which businesses are taxed on employee vacation benefits. While I support efforts to ensure that tax cuts do not increase the budget deficit, the offset should come from cuts in wasteful, unconstitutional government programs, such as foreign aid and corporate welfare. Congress should give serious consideration to cutting unconstitutional programs such as "Goals 2000" which runs roughshod over the rights of parents to control their children's education, as a means of offsetting the revenue loss to the treasury from this bill. A less than 3% cut in the National Endowment for the Arts budget would provide more funding than needed for the education IRA section of this legislation.

Mr. Speaker, we in Congress have no moral nor scientific means by which to determine which Americans are most deserving of tax cuts. Yet, this is precisely what Congress does when it raises taxes on some Americans to offset tax cuts for others. Rather than selecting some arbitrary means of choosing which Americans are more deserving of tax cuts, Congress should cut taxes for all Americans.

Moreover, because we have no practical way of knowing how many Americans will take advantage of the education IRAs, or the other education tax cuts contained in the bill, relative to those who will have their taxes raised by the offset in this bill, it is quite possible that H.R. 2646 is actually a backdoor tax increase! In fact, the Joint Committee on Taxation has estimated that this legislation would have increased revenues to the Treasury by $24 million over the next eight years!

It is a well-established fact that any increase in taxes on small businesses discourages job creation and, thus, increases unemployment! It is hard to see how discouraging job creation by raising taxes is consistent with the stated goal of H.R. 2646—helping America's families!

Mr. Speaker, this bill not only raises taxes instead of decreasing spending, it increases the federal role in education. For example the conference report on H.R. 2646 creates a new federal program to promote literacy, the so-called Reading Excellence Act. This new program bribes the states with monies illegitimately taken from the American people, to adapt programs to teach literacy using methods favored by Washington-based "experts."

Mr. Speaker, enactment of this literacy program will move America toward a national curriculum since it creates a federal definition of reading, thus making compliance with federal standards the goal of education. I ask my colleagues how does moving further toward a national curriculum restore parental control of education?

This bill also creates a new federal program to use federal taxpayer funds to finance teacher testing and merit pay. Mr. Speaker, these may be valuable education reforms; however, the federal government should not be in the business of education engineering and using federal funds to encourage states to adopt a particular education program.

While the stealth tax increase and the new unconstitutional programs provide significant justification for constitutionalists to oppose this conference report, the new taxes and spending are not even the worst parts of this legislation. The most objectionable provision of H.R. 2646 is one that takes another step toward making the federal government a National School Board by mandating that local schools consider a student's bringing a weapon to school as evidence in an expulsion hearing.

The issue is not whether local schools should use evidence of possessing a weapon as evidence in a discipline procedure. Before this Congress can even consider the merits of a policy, we must consider first whether or not the matter falls within our constitutional authority. The plain fact is as the tenth amendment to the Bill of Rights makes clear, Congress is forbidden from dictating policy to local schools.

The drafters of the United States Constitution understood that to allow the federal government to meddle in the governance of local schools, much less act as a national school board, would inevitably result in the replacement of parental control by federal control. Parents are best able to control education when the decision making power is located closest to them. Thus, when Congress centralized control over education, it weakens the ability of parents to control, or even influence, the educational system. If Congress was serious about restoring parental control on education, the last thing we would even consider doing is imposing more federal mandates on local schools.

In conclusion, although the Conference Report of Parent and Student Savings Account Act does take a step toward restoring parental control of education, it also raises job-destroying taxes on business. Furthermore, the conference report creates new education programs, including a new literacy program that takes a step toward nationalizing curriculum, as well as imposes yet another mandate on local schools. It violates the Tenth Amendment to the Constitution and reduces parental control over education. Therefore, I cannot, in good conscience, support this bill. I urge my colleagues to join me in opposing this bill and instead support legislation that returns education resources to American parents by returning to them monies saved by deep cuts in the federal bureaucracy, not by raising taxes on other Americans.

Mr. HASTERT. Mr. Speaker, I rise in strong support of the Conference Report accompanying H.R. 2646, the Parent and Student Account PLUS Act of 1998 (PASS A+) and wish to commend Chairman ARCHER and Senator COVERDELL for their work on this important bill. As an original cosponsor of this legislation I am pleased that today Congress is taking a positive step forward toward helping America's families with their efforts to educate their children.

Mr. Speaker, our nation's schools face a growing crisis and it is clear that improvements need to be made. Consider the following evidence: Nearly 40% of students do not feel safe in school and 2000 acts of violence take place in schools each day; U.S. eighth-graders recently placed 28th in the world in math and science skills; almost one out-of-three college freshman require some remedial instruction; and 40% of all 10 year-olds cannot meet basic literacy standards.

Mr. Speaker, the current state of America's K–12 education system is a serious threat to the health of the economy and to the future prosperity of American children. Thus far, school reform initiatives have focused on increasing funding to public schools. Since 1983, government funding to public K–12 schools has increased by 44 percent and average per-student spending has increased by 32 percent. Total spending for public K–12 education now totals nearly $300 billion per year. Yet for all these increases in federal government spending, our children are falling farther behind the children of other nations. In short, Washington-based solutions to our school's problems have not worked; nor are they likely ever to work.

Mr. Speaker, to combat the pressing problem of a troubled educational system, I cosponsored the Parent and Student Savings Account Plus Act (PASS A+). This bill allows parents, grandparents, or scholarship sponsors to donate up to $2,000 a year per child with the buildup of interest within that account to be tax-free if used for the child's education. Money from this fund could be used to pay for tuition, books, supplies, computer equipment, transportation, and supplementary expenses required for the enrollment or attendance of a student in an elementary or secondary public, private, or religious school—even associated costs for home schooling are covered.

Mr. Speaker, the PASS A+ legislation is important because it provides American families with the one educational tool we know works—a choice. While our Nation's K–12 public schools have fallen farther and farther behind, our higher education system of colleges and universities continues to be the envy of the world. Why? simply put, colleges and universities must compete for students and their education dollars. This competition has forced colleges and universities to focus on excellence and improvement and the results speak for themselves.

Mr. Speaker, PASS A+ works for parents and families because it helps them help themselves. If their local school will not provide the

education their children need, this legislation will allow them to choose an alternative. In the same vein, if their public school is working, the proceeds from these accounts can help parents provide important educational tools for their kids—like a computer. In short, this bill is a "win-win." It helps all kids, in all schools. I urge my colleagues to vote for our kids and support the Conference Report.

Mr. CLAY. Mr. Speaker, the tax scheme contained in this bill is nothing more than a back door vehicle for subsidizing families who want to send their children to private elementary and secondary schools. It is designed to create a tax shelter for families of high incomes, while leaving nothing for families that don't even have enough to pay for their retirement.

According to the Department of Education, these tax provisions would give an average tax break of $96 for families earning $150,000. However, for poor families, the average benefit would be only $1.

Rather than pursuing this shamefully regressive tax scheme, we should strengthen our public schools, where 90 percent of our Nation's children attend. We should address the problems of leaky roofs and overcrowded classrooms. We should target funds for school renewal in our country's poorest school districts. Finally, we should move to reduce class sizes—a proven strategy for enhancing student achievement.

Mr. WELDON of Florida. Mr. Speaker, the American people expect all of us—Democracts and Republicans—to work together to improve the education for our children. This bill, the A–PLUS Savings Accounts for children, will expand education opportunities for all children in grades K–12. We owe this to our children. As Washington Post columnist Charles Krauthammer put it, the "great crisis in American education is not at the university level. It is at the elementary and high school levels, where thousands of kids—particularly inner-city minority kids—are getting educations so rotten that their entire life prospects are blighted." Indeed, do any Members of this Congress send their sons and daughters to D.C. public schools? Does the Vice-President? Does the President? No, they do not. Why, because they know that their children will not be prepared for college or the workforce. As one of Jesse Jackson's campaign organizers has noted. I believe that the Clintons should not be the only Americans in public housing with an opportunity to send their children to a private school.

This bill will help all parents send their kids to any school they choose so that their children can get the best education possible. All children will benefit because any relative, individual, or business could contribute up to $2,000 in annual contributions per child to an account that will help pay for educational expenses. The money could be used for any school: public, private, parochial, or home school, or it could be used for tutoring, school uniform costs, or children with special needs. In addition, this bill addresses other problems in our classrooms which sorely need help; literacy programs, phonics, teacher testing and merit pay, and tax-free state college savings programs. The bill has all the right elements for education success: common sense, more dollars directly to the classroom, scholarships for needy students, and strategies that will lead to better teaching and learning. Let's put the interests of all children first, not Washington lobbyists and special interest. Let's pass H.R. 2646.

Mr. FAZIO of California. Mr. Speaker, the Republican 105th Congress has failed to act on legislation to improve American schools and instead has wasted time on extreme anti-public education legislation. The Coverdell private school savings account bill is just one of a number of efforts that serve only to undermine the education of many in order to benefit a few. Costing taxpayers hundreds of millions of dollars, Coverdell essentially subsidizes upper income families who already send their children to private and religious schools.

Let's put that money into improving the institutions which educate more than 90 percent of our elementary and secondary students. Specifically, construction for our nation's schools should be a top priority in our education initiatives. The Department of Education recently released a report highlighting the need for expanding our nation's classroom space. America's K–12 enrollment will be at an all time high of 52.2 million this fall, and by 2007 this number will reach 54.3 million.

However, despite this cause for action, this Republican Congress has refused to heed the call for a school construction initiative which calls for $5 billion in federal support to deal with the current crisis both in overcrowding and in crumbling school facilities. It is our responsibility to provide our children with an environment that is adequately equipped and conducive to learning.

Whether it be a push for vouchers or private school savings accounts, Republicans continue to ignore and undermine the needs of the majority of our nation's children. Time and time again, real concerns such as school construction are sacrificed in the Republican's narrow agenda.

Mr. RILEY. Mr. Speaker, the most important thing we can do for the future of our nation is to insure that each and every child in America is given the opportunity to receive the best education possible. I believe that it is our duty to prepare the next generation to meet the challenges of the 21st Century. The Parents and Students Savings Account Plus Act does just that. By allowing Educational Savings Accounts to be used for primary, secondary or higher education, this legislation gives our children the opportunity they deserve.

First and foremost, this legislation expands tax free expenditures from Education Savings Accounts to include elementary and secondary school expenses. Savings from these accounts can be used for tuition, tutoring, transportation, books, uniforms, and computers.

Most importantly, the measure increases to $2,000 per year the maximum amount of contributions that may be made to an Educational Savings Account. Contributors can include relatives, friends and corporations as parties who may contribute to this account.

Mr. Speaker, this legislation gives parents more control over their children's education and is an important tool in making schools more accountable to parents. Parents, not government will decide how to best spend their money on their child's education.

I urge all of my colleagues to vote in favor of the Conference Report.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in strong opposition to the Conference Report on H.R. 2646, a bill which will provide tax breaks to benefit the wealthy in order to send their children to private schools.

There is nothing better we can do for this nation than to improve education, and assure that all children in all communities across this nation have access to quality education. Unfortunately, the Republican Majority has once again failed to put forth legislation that will help us accomplish this goal.

This Conference Report—the cornerstone of the Republican Education agenda—does absolutely nothing to improve education. It will give a few wealthy families a tax break on the money they save to send their children to private schools, or buy additional items such as computers. But it will do absolutely nothing to improve education in this country overall.

It will have no impact on our public school system which serves 90% of all elementary and secondary students. Instead it spends scarce federal dollars—$2.2 billion over the next five years—to subsidize families that already send their children to private schools. It will be those who can already afford private education with or without this tax break that will benefit from this bill.

Low- and middle-income families are struggling just to keep themselves above ground financially. This type of assistance, which requires families to have their own money in order to benefit, does nothing for families who cannot afford to put money away for education.

An analysis by the Treasury Department found that 70% of the tax benefits in H.R. 2646 will go to families in the top 20% of the income brackets, while all other families will get virtually nothing.

The Congress' own Joint Committee on Taxation found that 50% of the tax benefits in this proposal will go to the 7% of families who are already sending their children to private and religious schools.

Schools need our help. They need help in renovating crumbling school buildings and constructing new ones to keep up with student growth. They need our help in obtaining the latest technology and training teachers to use that technology. They need our help in reducing class size, so that children can have more individualized attention. Families need our help in providing before- and after-school programs, so that parents know their children are safe and in a learning environment during those non-school hours during the day.

Instead this bill concentrates on the central Republican education goal which is to abandon the public school system and help the few who can attend private schools. This bill would allow for the first time religious schools to benefit from federal dollars. Though not as direct as a voucher program, the tax-free interest received in these IRA accounts can be used to pay the tuition of private and religious schools.

This Conference Report does nothing to solve our most pressing problems in education today. It is simply political maneuvering to help a specific population in this country.

In addition to the tax provisions in this bill, there are other items of concern in this bill.

First the conference report would for the first time allow federal money to be used to support single-sex education. It includes a qualifier that says the education offered to students of both sexes most be comparable. However, there is no requirement that such schools must comply with equal educational opportunity laws such as Title IX of the Education Act Amendments of 1972, the equal protection clause under the constitution, or state laws.

This broadly worded permission to use federal funding for single sex education ventures down a dangerous path that could turn us back to the time of separate and unequal education for female students.

The Conference Report also includes a Sense of the Congress Resolution that 95% of federal elementary and secondary education funds be spent in the classroom.

While no one can argue that we need to assure that students receive the full benefits of education funding, this resolution is deeply flawed in its findings and setting an arbitrary requirement of 95% of funds that must be spent in the classroom does not consider the practical aspects of providing education.

The findings in this resolution are not statements of fact, but conjecture, opinion or they are simply not true. Take for example the clause which states that there are "more than 760 Federal education programs, which span 39 Federal agencies at the price of nearly $100 billion."

Let's set the record straight. The Department of Education administers 183 education programs.

Based on an analysis by the U.S. Department of Education, the list of 760 includes 305 which are identified as Department of Education programs. Of these programs 122 are unauthorized, unfunded or simply not programs. That leaves 183 Department of Education programs.

The Majority disparages the debate on education policy in this country by using such false information which misleads the American public of the true nature of federal investment in education.

Federal education programs already drive money down to the local level. Less than 2% of the US Department of Education budget is spent on Federal administrative costs. This raises the question; is this a problem with federal administration or is it a state and local problem?

There are legitimate uses for education dollars that may not be spent directly in the classroom, but go to assure that children can take full advantage of the learning experience in our schools. For example, professional development is necessary to assure quality teachers in our classrooms, but teacher training does not occur in the classroom. Is the expense considered "dollars to the classroom"?

One of the major education goals of the Republican Majority that I agree with is to send more money to the states for special education. However, are support services for children with disabilities considered "dollars to the classroom"?

Funds on technology may need to be spent on infrastructure outside the classroom so that the school is wired for new technology, also training teachers on using technology takes place outside of the classroom. More and more schools are forming consortium and partnerships with other schools or community groups to improve technology in their schools. Funds to support such partnerships may not be spent directly in the classroom. Is this type of technology funding considered "dollars to the classroom"?

Assuring that children have a safe and drug free environment in school may include expenditures outside the classroom. Are Safe and Drug Free School funds considered "dollars to the classroom"?

Libraries are an important component of our educational system, and supplement classroom learning. Is library funding considered "dollars to the classroom"?

Mr. Speaker, the Dollars to the Classroom resolution is flawed, as is the underlying bill. Ask my colleagues to reject this conference report which will do nothing for education in this country.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. RANGEL. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. RANGEL moves to recommit the conference report on the bill H.R. 2646 to the committee of conference with instructions to the managers on the part of the House to agree to provisions relating to tax-favored financing for public school construction consistent, to the maximum extent possible within the scope of conference, with the approach taken in H.R. 3320, the Public School Modernization Act of 1998.

The SPEAKER pro tempore. The motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RANGEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 196, nays 225, not voting 12, as follows:

[Roll No. 242]

YEAS—196

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
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
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NAYS—225

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske

Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Cooksey
Cunningham
Gonzalez
Green
Hastings (FL)
Leach
McNulty
Moakley
Radanovich
Torres
Weldon (FL)
Wise

□ 1209

Mr. BATEMAN, Mr. FAWELL, and Mrs. ROUKEMA changed their vote from "yea" to "nay."

Messrs. GUTIERREZ, JOHNSON of Wisconsin, and WYNN changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RADANOVICH. Mr. Speaker, on rollcall No. 242, I was inadvertently detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. LEACH. Mr. Speaker, on rollcall No. 242, I was inadvertently detained. Had I been present, I would have voted "yea."

The SPEAKER pro tempore (Mr. NEY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RANGEL. 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 225, nays 197, not voting 12, as follows:

[Roll No. 243]

YEAS—225

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baesler
Barcia
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gordon
Gutierrez
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Thompson
Thurman
Tierney
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn
Yates

NOT VOTING—12

Baldacci
Cooksey
Gonzalez
Green
Hastings (FL)
Leach
McNulty
Moakley
Sessions
Torres
Weldon (FL)
Wise

□ 1219

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEACH. Mr. Speaker, on rollcall No. 243, I was inadvertently detained. Had I been present, I would have voted "yea."

ANNOUNCEMENT REGARDING CONSIDERATION OF AMENDMENTS TO LEGISLATIVE BRANCH APPROPRIATIONS BILL

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

Mr. SOLOMON. Mr. Speaker, I would like to make two announcements. The

first announcement is that there probably will not be a vote on the floor for another hour.

Secondly, the Committee on Rules is planning to meet next week to grant a rule which may limit the amendments offered to the Legislative Branch Appropriations Bill.

Members who wish to offer amendments to the bill should submit 55 copies of their amendments, together with a brief explanation, to the Committee on Rules office in H-312 of the Capitol, no later than noon on Tuesday, June 23.

Amendments should be drafted to the bill as ordered reported by the Committee on Appropriations. Copies of the text will be available for examination by Members and staff in the offices of the Committee on Appropriations in H-218 of the Capitol.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

Any offset amendments should be scored by the Congressional Budget Office, and Members ought to listen to that, to ensure compliance with clause 2(f) of rule XXI, which requires that they not increase the overall levels of budget authority and outlays in the bill. Otherwise, those amendments may not be in order.

PROVIDING FOR CONSIDERATION OF H. RES. 463, ESTABLISHING SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 476 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 476

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 463) to establish the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China. The resolution shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on Rules now printed in the resolution shall be considered as adopted. The resolution, as amended, shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules. The previous question shall be considered as ordered on the resolution, as amended, to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. Of course, during consideration of the resolution all time yielded is for debate purposes only.

Mr. Speaker, this resolution is a rule providing for consideration of House Resolution 463 to establish the Select Committee on United States National Security and Military/Commercial Concerns with the People's Republic of China.

This rule provides 1 hour of debate on the resolution, divided equally between the chairman and ranking minority member of the Committee on Rules. And right now, that is being filled in by the gentleman from Texas (Mr. FROST).

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the resolution shall be considered as adopted. The rule further provides that the previous question shall be considered as ordered on the resolution.

Mr. Speaker, this rule passed by voice vote in the Committee on Rules, as did the underlying resolution, and I would hope that we can dispense with the rule expeditiously and proceed with the debate on the resolution itself.

Mr. Speaker, the debate over the next several hours will revolve around one question and that question is how seriously do we in the House take the national security of the United States?

This Select Committee proposed to be created by this resolution will address an issue over which I have had many concerns for at least a decade, and that is the transfer of technology which has military value to Communist China.

I have opposed this policy since it began during the Reagan administration under my hero, Ronald Reagan, in the wake of the Challenger disaster. But until recently, my differences with Presidents Reagan, Bush, and Clinton have been strictly policy differences. And naturally people can disagree.

Now, over the past few months, we have seen startling revolutions that have brought us to this unfortunate point where we need this Select Committee to sort out what appears to be both a national security fiasco threatening the very security of this Nation of ours and our American citizens, and of course, a potential scandal. I will elaborate on and document those revelations during the next debate after we finish this rule.

Mr. Speaker, it suffices to say that we now know that the United States' national security has been harmed and indeed it has been breached by this policy. And that despite knowing this, and despite a Justice Department investigation of the Loral Company's actions vis-a-vis China, the Clinton administration allowed this policy to continue in February by granting a waiver to Loral to export yet another satellite to China. My colleagues ought to pay attention to this and just how important that is.

We also know that Loral has connections to the White House and that a Chinese military officer, listen to this, a Chinese military officer involved in the satellite launch business in China attempted to buy influence with the United States Government. That is reported in every newspaper across this country. The New York Times, the Washington Post, all newspapers.

Mr. Speaker, also in the next debate I will elaborate on some testimony we heard in the Committee on Rules last night from Jim Woolsey, who is President Clinton's first CIA director, now retired. Members are going to be shocked at what we are giving to the Chinese in the name of business, or should I say "business as usual."

The bottom line is that our technology store is open and the Chinese have been buying it. They have been buying the future security of this Nation. We need to find out how and why this happened and what damage has been done to this country. Is this simply a policy failure of massive proportions or is there more to it?

This is what we have to consider in this legislation. Mr. Speaker, the subject matter of this inquiry is of such grave importance that it warrants treatment outside the existing committee system which continues to serve this House well.

□ 1230

But there are eight standing committees involved with some 295 Members. You would never be able to get to the bottom of this if you left it up to each individual standing committee. There is no way that we could perform. That is why the need for this Select Committee that we propose to establish here today.

The proposed resolution defines the scope of the inquiry and it sets forth the methods, the procedures, and the budgetary components of the Select Committee's work. The resolution does not represent an open-ended commitment. The Select Committee must wrap up its work by the end of the 105th Congress and report to the House.

That, again, Mr. Speaker, is one of the reasons for forming this Select Committee now. We all know that, after next week, the House will break and go home for a work period over the 4th of July for a couple of weeks. We will then come back and work the remainder of July. Then after the first week in August, we will be off, back in the district again. When we return after Labor Day, there will be about 1 month left before Members have to return to their districts to finish their

campaign for reelection or election this coming November.

Mr. Speaker, I urge Members to support the rule so we can get on with the debate and on whether we should create a special panel to answer what I think are very, very alarming questions. Every other Member should think so, too.

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

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

Mr. Speaker, we are here today to establish a Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China.

A variety of allegations about our relations with China have surfaced in the press in recent months. These include the illegal transfer of missile technology to China by an American company, a substantial campaign contribution to the Democratic National Committee from a Chinese military officer through an intermediary, and the question of the effect of the political contributions by the CEO of an American company which manufactures satellites launched on Chinese missiles.

At this stage, these are allegations and not proven fact. The purpose of this Select Committee is to determine the facts to the extent that this is possible. There are some Members on the other side of the aisle who would presume that every allegation ever printed or ever aired by the media is true. To do so does injustice to our colleagues who will serve on this committee and to the individuals whose names have appeared in the American press.

The Democratic National Committee denied that it ever knew any funds received by it came from a Chinese military official and returned the funds promptly. The Justice Department has an ongoing investigation into the question of the possible illegal transfer of missile technology by the Loral Corporation and has not yet reached a conclusion.

Mr. Speaker, the entire practice of licensing the export of satellites, manufactured by several U.S. companies, to be launched on Chinese missiles was initiated in the Reagan administration and was implemented and continued during the Bush administration. I would like to make perfectly clear that this practice did not originate in the Clinton administration, although the manner in which sanctions waivers had been granted is a legitimate matter for investigation.

Further, Mr. Speaker, the CEO of Loral, Bernard Schwartz, who has made substantial contributions to the Democratic party has denied that there was ever any quid pro quo for contributions for sanctions waivers involved.

On all these matters, Mr. Speaker, we should not presume a conclusion before the Select Committee has been authorized, its members named, and before it ever meets.

Clearly, there is a valid reason for the establishment of this committee. We need to get to the bottom of all these questions. Hopefully, it will be done in an objective and fair manner and will not become a partisan witchhunt.

Mr. Speaker, I am particularly concerned that the mandate of this Select Committee is very broad, and I intend to discuss this issue when we debate the resolution creating the Select Committee. I am concerned as well about some of the unilateral authorities that have been granted to the chairman of the Select Committee.

But right now, we are considering the rule for debate on the resolution creating the Select Committee. I hope my colleagues on the other side of the aisle will refrain from engaging in a public hanging of anyone involved in this very important matter until such time as a Select Committee has met and made its findings and recommendations to the House.

Mr. Speaker, while I support this closed rule, I note that my Republican colleagues chose not to allow for the consideration of a very sensible amendment relating to the funding of the Select Committee which was proposed by the gentleman from California (Mr. CONDIT). Consequently, it is my intention to oppose the previous question in order that I might be able to offer a substitute rule which would make the Condit amendment in order.

That being said, Mr. Speaker, I have confidence that the designated chairman of this Select Committee, the gentleman from California (Mr. COX), and his designated ranking member, the gentleman from Washington (Mr. DICKS), will conduct themselves and the proceedings of this Select Committee with the greatest degree of integrity and bipartisan spirit.

They are both known as faithful to the principles of the political parties to which they belong, but more importantly, they are known for their fairness and their ability to work for the best interests of our great Nation.

Mr. Speaker, as I have said, the Democratic members of the Committee on Rules, based on what has happened in the House during the past year and a half have a number of concerns about the provisions of H. Res. 463. I will address those concerns when we begin the debate on that resolution.

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

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume just to briefly comment on what was said by my good friend, the gentleman from Texas (Mr. FROST).

The gentleman mentioned something about a public hanging, and let me assure him and everyone else there will not be any public hanging from this side of the aisle on this matter. This is an extremely important matter.

I think what we need to be concerned about are cartoons like this one that are appearing across this Nation. It is a picture of the White House, and it has a slogan here that says: "Relax, Hillary. I have convinced the Chinese to return the technology." The return of the technology is an intercontinental ballistic missile, one of 13 that the Communist Chinese have today of 18 that they have aimed at the United States of America.

That is how serious this whole debate is. I for one will not try to hang anybody here today, especially since we have gone to great lengths with the gentleman from California (Mr. COX), who will speak in a few minutes, and the gentleman from Washington (Mr. DICKS); I do not see him over there, but both of these gentlemen are two of the most respected and admired Members of this body.

They are not partisan Members. Certainly, they are excellent selections by the majority, by Speaker GINGRICH, and by the minority leader, the gentleman from Missouri (Mr. GEPHARDT) to head up this committee on this vital, vital issue.

Mr. Speaker, I yield 2 minutes to the former mayor of Charlotte, the gentlewoman from North Carolina (Mrs. MYRICK), a very important and distinguished member of the Committee on Rules.

Mrs. MYRICK. Mr. Speaker, in the past month, we have learned that the President may have turned a blind eye to an issue that caused harm to our national security by helping the Chinese improve their ballistic missiles. We have also learned that he may have ignored the Secretary of State and the Director of the CIA and the Pentagon. Also, the President may have accepted campaign donations from the Chinese Red Army at the same time he changed the U.S. policy to benefit China's missile program.

Mr. Speaker, there may be an innocent explanation for this chain of events, but the American people have not heard it yet. These are serious matters, because China has 13 missiles aimed at U.S. cities. It would be shocking if this is the problem that we believe it is with national security.

So far, the administration has avoided answering even the most basic questions about its China policy. So today the House will take the bipartisan and necessary step of creating a Select Committee to look into these matters.

I hope and pray we will simply discover an unfortunate set of circumstances that involves no illegality. But both Republicans and Democrats in this body recognize that these national security questions deserve a careful look from a serious, bipartisan panel. I urge my colleagues to support

this resolution to create a Select Committee on China.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I rise today just to make a few brief comments. The gentleman from Missouri (Mr. GEPHARDT) asked me to be the ranking Democratic member on the Select Committee.

I have had a chance over the last couple of days to sit down with the gentleman from California (Mr. COX), who is going to be the chairman of this endeavor, and I basically support what we are doing. I think there are serious questions that need to be investigated, and we need to have the facts.

I would ask all of my colleagues to try to see if we cannot lower the rhetoric on this subject. This is not a policy that started under the Clinton administration. As the chairman of the Committee on Rules appropriately pointed out the other day in the Committee when we were discussing this resolution, this policy started under Ronald Reagan and was continued by George Bush and by Bill Clinton.

Both President Bush and President Clinton granted a number of waivers to allow our commercial satellites to be launched on Chinese boosters. I know much has been made about the question of whether there was some improvement in the overall military capability of the Chinese. Let me remind the House that the Chinese Communists possess only a handful of nuclear weapons aimed at the United States. Obviously we worry about that. It is their effort to have a strategic deterrent.

I would remind my colleagues that we still have 18 Trident submarines and 700 land-based missiles. We have the B-2 bomber and the B-1 bomber, which are capable of delivering nuclear weapons. So I find the idea that somehow the People's Republic of China has gained some military superiority over the United States as a result of these transfers not to be accurate.

What I hope we can do is to lower the rhetoric and get at the facts. Let us look at the facts and find out what happened. The administration has said that they made these decisions without any concern about political contributions. We will need to look at that.

We also need to see what the People's Republic of China has been up to. There are some concerns about that. We also need to look at this policy. Today, on the front page of the New York Times, there is a story that the administration is now reviewing a sale of commercial satellites that is to be made to the People's Republic of China. This is different from our policy of allowing Chinese launchers to be used to launch US-owned satellites.

This is another, and I think a very serious issue. I hope that, out of this, we will go back and look at our policy. Is our policy correct? Is the policy that President Reagan started and Bush and Clinton have continued the right policy for the United States? I think that is the most important issue. We may want to revisit that. I think that is certainly something that we will look into in this investigation.

I want to thank the chairman of the Committee on Rules and my Democratic friends on our side of the Committee for all the work that they have done to try and help and cooperate. I feel very sorry for my good friend and colleague the gentleman from California (Mr. CONDIT) because his amendment was not made in order. He is going to speak on that.

I would say one final thing. Some people use the Iran contra model as the way we should proceed. Remember, in the Iran contra model, once the Select Committee was created, all other investigations in other committees stopped.

We have too many committees now looking into this subject. I hope once we create this Select Committee which will have outstanding Members who are going to do a highly professional job, the House will let the Select Committee do its job. That is why I share the concern that we may be spending too much money on too many different investigations. Let us do one and do it well and do it in a way that will be of use to the House and of use to the American people.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I urged at the beginning of the consideration of this resolution that people on the other side not engage in any public hanging at this point. These are serious matters. They deserve to be debated. They deserve to be resolved by this Select Committee in a serious bipartisan manner.

□ 1245

My colleague from the State of North Carolina, when she got up to speak, talked about a contribution to the President from a Chinese official. There was no contribution ever made to the President from a Chinese official. There was a contribution made to the Democratic National Committee, which the Democratic National Committee said it had no knowledge of and returned.

Let us lower the rhetoric and let us go on to the policy questions involved in this matter.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CONDIT).

Mr. CONDIT. Mr. Speaker, first of all, let me say I agree with the gentleman from Texas (Mr. FROST) and the chairman, this is a very important committee, and I support every effort to take a serious look at the allegations. I think it is serious for this country and we ought to take it seriously.

But saying that, I would like to speak just a moment to my amendment that was in the Committee on Rules yesterday that was denied. And I am really surprised that it was denied, particularly because the other side of the aisle, on a regular basis, makes statements that they are interested in saving taxpayers money, and that is what my amendment did, was try to save some money.

It takes money that this Congress has already set aside for investigation and transfers it to the Select Committee without changing the focus, scope or intent of the Select Committee.

The Select Committee is asking for $2.5 million for 6 months. The Committee on Government Reform and Oversight has spent approximately $3 million during an 18-month period. This year the Committee on Government Reform and Oversight has allocated $1.8 million. It shows approximately $1.5 million remaining in the unspent fund category. Additionally, of the original $8 million in the special reserve fund, more than $1.3 million is still uncommitted.

What my amendment simply does is put some attention on this Congress to pay attention to the money that we spend on these multitudes of investigations that we do around here; that we ought to pay attention about duplication, and we ought to have some interest in how we invest the taxpayers' money.

There is no dispute over here. These are serious allegations. I have the utmost confidence that the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS) will do everything in their power to get to the bottom of the issue and, hopefully, resolve this. But I also want to caution us, it is $2.5 million in 6 months, then we go to a year and it is another $2.5 million, then we are up to 5, and who knows where we are going. We need to be mindful of this.

And that is why I encourage my Members, the Members on this side of the aisle as well as the other side of the aisle, to vote for the recommit. The recommit simply says, let us take the money that has already been allocated to investigations and put it toward this special committee that we are putting together today. It is a reasonable proposal.

It is not a partisan proposal, Mr. Chairman. It is a sincere proposal for us to pay attention to how we spend money and to be responsible for how we do investigations around here.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to respond.

The gentleman would seem to infer that maybe some people on this side of the aisle do not care about fiscal responsibility, and I would just like to

remind the gentleman that about 5 years ago I authored a book, it is called The Balanced Budget, a Republican Plan. It was long before its time, but it told us how we could balance the budget in 1 year, not in 7, or 6, or 5, or 4, or 3, or 2.

My colleagues ought to read it, because that is actually the bill that I introduced back on June 22nd, 1995, that actually did that, and that is what the Congress finally came around to doing. And, boy, we had to bite the bullet to vote for those kinds of cuts to get the welfare spending under control and put this House back in fiscal order.

Let me just say to the gentleman, the gentleman's amendment was not made in order for, among other things, technical reasons, because it is not germane; it is an attempt to micromanage another committee, and we do not allow that.

Secondly, if this resolution were brought to the floor as a privileged resolution, which it normally would be, and it is how we have brought other resolutions creating select committees to the floor, as privileged resolutions, it would be unamendable. So this amendment would not be considered anyway.

Third, I just want to point out again, and again commend the gentleman from California (Mr. COX), the gentleman from Washington (Mr. DICKS), and the gentleman from Massachusetts (Mr. MOAKLEY), on the other side of the aisle, as well as the Democrat minority leadership and our leadership, because we have worked diligently on a bipartisan basis to take away all of the partisanship out of this bill.

The question of funding did come up, and we worked with both sides of the aisle, with anyone that was raising a question, anyone, and we came up with the language that is in the bill today. At the very last minute, my good friend, the gentleman from California (Mr. CONDIT), brought an amendment up to the floor, after the bill was already finished and after we had already made all the decisions.

So I think the gentleman does protest too much, and that is why the gentleman's amendment was not made in order.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. THOMAS), the very distinguished chairman of the Committee on House Oversight, who waived jurisdiction on this measure so it could come to the floor in a timely and expeditious manner, and we will let him explain the funding level.

Mr. THOMAS. Mr. Speaker, I want to thank the chairman for yielding and affording me an opportunity, having waived the committee's jurisdiction on the funding, to respond to an amendment that is not in order.

And, frankly, I am pleased that the Committee on Rules did not make the amendment in order, because as the gentleman from Texas (Mr. FROST) said, after all, these are serious matters and it should be debated seriously, he then yielded to the gentleman from California (Mr. CONDIT) who, as part of his appeal on his amendment, brought up the question of funding in a context which, if anybody objectively examined his discussion, was to impugn other investigations or the expenditure of money in this particular Congress by the majority for efforts that apparently they believe do not fit the profile of serious matters debated seriously.

I am sorry the gentleman from California felt it necessary to inject that, because this gentleman from California would love to remind him, since he was a member of the majority in the 103rd Congress, at that time, the committees, in totality, spent more than $223 million.

Now, that is not adjusted for inflation, because, frankly, constant dollars look good enough, two Congresses later in the 105th we are not spending 80 cents on the dollar. We are only spending $180 million.

So if the gentleman is looking for savings. The new Republican majority has provided it both in the 104th and in the 105th. We are not spending at the level my colleagues on the other side of the aisle spent.

In addition to that, the amendment that was rejected said that the money should have to come from another committee in its unobligated and unexpended context. That money would nowhere near meet the needs of this particular committee, if that was where the "not more than $2.5 million" would be found.

Let me say that the $2.5 million that we are discussing is nowhere near, when the gentleman was in the majority, the $2.9 million in adjusted dollars that the Iran contra hearings cost, which produced absolutely nothing. Our hope is that we get a serious resolution of what we believe to be a serious matter that will be discussed seriously.

And finally, let me say this, as the gentleman leaves. In all of those other previous select committees, not once, whether it was Iran contra, whether it was the Select Committee on Aging, whether it was the Select Committee on Children, Youth and Families, whether it was the Select Committee on Hunger, not once in those previous Select Committee creations was there a distribution of the resources, in terms of staff, two-thirds, one-third, not in any of those instances. Iran contra, for example, was 80 percent majority, 20 percent minority.

I want to underscore that the chairman of this committee, working with the ranking member, has committed that outside of those joint staff, which they will agree to jointly, that the majority will use two-thirds of the resources and the minority will get one-third. So that this Select Committee, thank goodness, will not be in the tradition of the select committees that had been created in previous Congresses by the previous majority, which hogged all the resources and did not produce results.

What we have here will be a fair, equitable distribution. We will have a serious discussion of serious matters.

So I want to compliment the chairman of the Committee on Rules and the other members of the Committee on Rules who saw the wisdom of voting down this very poorly drafted and constructed amendment, which would not only invade the prerogatives of another committee, but frankly, would not provide near the resources that I believe will be used wisely by this particular committee.

When we begin the discussion of funds and how and where they are going to be used, if it is necessary to remind the now-minority of their previous transgressions, we will be more than willing to do so. If my colleagues provide time on their side to go beat dead horses, we will keep the record straight. They did not create a fair funding mechanism under previous select committees, and they spent more money than this Select Committee. This Select Committee will spend less than Iran contra, and it will be fairly divided. That is the difference with the new majority.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. HALL), a member of the Committee on Rules.

Mr. HALL of Ohio. Mr. Speaker, I want to thank the gentleman for yielding me this time. I rise in support of the motion that will be offered by the gentleman from Texas (Mr. FROST), the Condit amendment.

I share the concerns that many people have said already today concerning the possibility of U.S. companies providing expertise to China for use in its ballistic missile programs. I have been concerned about this kind of technology being transferred for a number of years, under the last two Presidents as well. However, I have concerns about the cost of this investigation. This resolution would spend $2.5 million more in additional funds. I believe it should use existing funds.

In 1993, the House of Representatives had four select committees, and the Select Committee on Hunger was allocated for a year, every year, about $600,000. The most expensive of the four select committees in those days was the Select Committee on Aging, and I believe they spent somewhere between $1.2 and $1.4 million.

While we need to get to the bottom of this issue on China, I believe the existing funds in the current legislative branch appropriation should be used. There is enough money there.

I just want to correct the gentleman from California (Mr. THOMAS) in what

he said when we had the other select committees, that there was not a fair and equitable distribution of the money. And the fact is, that is not true. When I was chairman of the Select Committee on Hunger, we were very fair in our distribution of the money. Two-thirds of the money went to the majority, a third went to the minority. So the statement he made was not correct. We were very fair.

I would hope that we would look at the funding of this. This is far too much money to spend on a select committee. We should go with the motion that will be provided to the amendment offered by the gentleman from California (Mr. CONDIT).

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to point out to another very distinguished Member, that I respect more than most, and that is the gentleman from Ohio (Mr. TONY HALL). He is one of the most sincere Members that we have.

But I would say to the gentleman that that is exactly what we are doing. If the gentleman will look at page 5, it says not more than $2,500,000 is authorized for expenses of the Select Committee for investigation and studies. And it goes on to say, out of applicable accounts of the House of Representatives, which comes out of the legislative branch appropriations.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DREIER), the very distinguished vice chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Glens Falls, New York, the distinguished chairman of the Committee on Rules, for yielding me this time.

I rise in strong support of both the rule and the resolution, and to say that I am very pleased that in a bipartisan way there has been an agreement on both the establishment of a Select Committee and on the funding levels for the committee, and the fact that they will be coming out of the already appropriated legislative branch measure.

I rise as a very strong proponent of what has been known as the Reagan-Bush-Clinton policy of engagement with the People's Republic of China. I still feel very strongly about the need to ensure that we do maintain contact and engagement and, among other things, normal trade relations with the People's Republic of China, because I believe the power of the free market is very, very great, and we should not do anything that would possibly diminish it.

□ 1300

Having said that, Mr. Speaker, I joined with several of my colleagues when this issue first came to the forefront, colleagues of mine who have joined with us over the years, working to make sure that we have maintained normal trade relations with the People's Republic of China and we sent a letter to the President, which I would like to share with my colleagues. And I do so not trying to in any way raise the level of rhetoric, which I think appropriately both the gentleman from Texas (Mr. FROST) and the gentleman from Washington (Mr. DICKS) have said that we ought to keep on a balanced level, but to remind our colleagues why it is that we are here dealing with this issue.

In the letter that was dated May 22nd, we wrote, Mr. President, each of us has been deeply involved in supporting the policy of engagement and maintaining Most Favored Nation status with the People's Republic of China. We support a strong and stable relationship that is bolstered by free market reforms and the seedlings of democratic progress in that country.

The first and foremost responsibility of the Executive Branch is to protect national security. Therefore, we are deeply disturbed by the very serious charges regarding the transfer of rocket technology to China. These charges call into question the fitness of your administration to carry out a sound China policy. We have questions regarding the apparent decision of the administration to place narrow commercial considerations over national security concerns. The fact that large campaign contributions were accepted from firms that stood to gain from such decisions is even more troubling.

Our greatest concern is that your administration has undermined its own ability to carry out our Nation's foreign policy toward China. Absent the ability to command respect both at home and abroad, your administration will not be able to move this critical relationship forward.

Therefore, we implore you to work quickly with the appropriate Congressional committees to make available all relevant information related to the matters in question. It is in our national security interest to resolve these questions so that we can build support for a policy of engagement in China that is firmly rooted in our national security interests.

I strongly support the establishment of this committee, and I support the efforts that I believe can be addressed and put together in a bipartisan way.

Mr. FROST. Mr. Speaker, I yield 4½ minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I thank the gentleman from California for yielding.

I support the creation of this Select Committee. I think we should have a thorough investigation of the issues surrounding the possible transfer of sensitive technology to China. What I am opposed to is the use of Congressional investigations for partisan political purposes and the waste of taxpayer dollars. It does not serve the American people to have multiple Congressional committees spending millions of dollars investigating the very same issue over and over and over again.

Unless we reject this rule and adopt the Condit amendment, we will have redundant investigations that are wasting millions of dollars investigating the very same issue.

In March of this year, the Burton committee was given $1.8 million to continue its investigation of the influence of foreign contributions on U.S. policies. That was the mandate to the Burton committee. I want to point out to my colleague the gentleman from California (Mr. THOMAS) that, notwithstanding all his complaints about what the Democrats did not do and how he is doing better in the allocation of money, on that Burton committee the Democrats were given 25 percent, not the third that we were all promised by the Republican Party.

But that committee, nevertheless, was given $1.8 million to do this investigation. A major focus of it was to have been whether contributions from China influenced U.S. foreign policy and national security. Now we are going to create a Select Committee and we are talking about giving it $2.5 million to investigate the very same issue.

The resolution authorizing the Select Committee specifically directs the Select Committee to investigate, and I quote, any effort by the government of the People's Republic of China or any other person to influence any of the foregoing matters through political contributions.

That is what this Select Committee is going to investigate. That is what the Burton committee was investigating. It does not make sense to have a Select Committee investigating the same issues and then to have the Burton committee investigate it as well.

The $1.8 million given to the Burton committee to investigate these issues should be transferred to the Select Committee and let the Select Committee do this job of investigating this matter. We should have one thorough, credible bipartisan investigation, not multiple, redundant investigations and use of taxpayers' money for partisan purposes and wasting that.

One investigation will save the taxpayers millions and prevent this investigation from being used for partisan political purposes.

Mr. CONDIT. Mr. Speaker, will the gentleman yield?

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

Mr. CONDIT. Mr. Speaker, I just want to respond to my colleague from California (Mr. THOMAS) with respect when he makes reference to when we were in the majority and Iran Contra investigation. I want to let him know

that I voted with him, I voted with him to reduce the cost of investigations. I voted with the chairman to reduce the cost of investigations to bring a halt to that. Welfare reform, a significant group of Democrats voted with the chairman and with the gentleman from California (Mr. THOMAS) to try to save money to try to reform the welfare proposal.

I am not a Johnny-come-lately on this issue of saving money on investigations. I have brought this issue up time and time again in the committee, asking the chairman not to duplicate, not to spend money twice to get the same information.

When we had the other body doing the investigation, I asked them not to duplicate. When the other body was doing their investigation, I consistently asked the chairman of the Committee on Government Reform and Oversight not to duplicate.

So I tell my colleagues and I tell the gentleman from California (Mr. THOMAS) I am not someone who just comes here today at the last minute to bring this up. I brought this up consistently. It is a sincere attempt to try to change the way we investigate each other around here.

Let me tell my colleagues, if they think our side of the aisle did it wrong so they are going to do it wrong, that is not a good enough reason. We need to put a stop to this. We need to try to save money when we can. And we need to not duplicate.

There are a lot of people whose lives are destroyed because we duplicate and we ask them to do things over and over again and spend money, and I think we need to be more mindful for the American people than that.

Mr. FROST. Mr. Speaker, may I inquire of the time remaining on each side?

The SPEAKER pro tempore (Mr. GILLMOR). Both Members have 10 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 4½ minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Texas for yielding and his hard work on this very, very difficult issue.

Mr. Speaker, I rise today to express some concerns about the resolution that we will have before us soon, a resolution to establish a Select Committee on National Security and Other Concerns with China before us today. It is a troubling one to me.

The concerns presented here are serious and they are important. Congress has not only the right but the responsibility to exercise oversight of policy decisions. Indeed, the Committee on National Security and the Committee on Intelligence and the Committee on International Relations are the appropriate venues for such oversight.

When there is a connection between campaign contributions and policy decisions, that investigation is being done by the Justice Department. Over the years, I have been proud to work very closely in a bipartisan fashion with my Republican colleagues on the China issue, including the gentleman from Virginia (Mr. WOLF), the gentleman from New York (Mr. SOLOMON), whom I respect very highly and will miss very, very much when he is going on to happier things. The gentleman from California (Mr. COX), who will chair this committee, is one of the finest Members of this body. I respect his intellect, his sense of fairness and appropriateness in dealing with these issues. It is not anything against him that I have the question, but concerns about the nature of this committee.

I have worked closely with the gentleman from New Jersey (Mr. SMITH) and others who have consistently opposed the current U.S.-China policy. These people that I mention and others on the Republican side have real standing in criticizing the consequences of the policies.

As my colleagues know on both sides of the aisle, I have pulled no punches in criticizing the President, whether he was a Republican President or a Democratic President, for what I think is the wrong China policy. But as one who has consistently joined with some of my Democratic and Republican colleagues in raising concerns about the Chinese military for many years on this floor, I see today's action as a move by the gentleman from Georgia (Mr. GINGRICH) and the Republican leadership to exploit the China issue.

As I say, as one who has worked very hard and long on this issue, I regret to see that the Republican leadership has just walked lock step with the Clinton administration on China and, as responsible as President Clinton is and his administration is, on the consequences of that China policy.

Allowing U.S. satellites to be launched on foreign rockets is a policy started under President Reagan, continued under President Bush and President Clinton. So if there is a criticism of the consequences of that policy, then the blame should be laid at the feet of both parties in a bipartisan way.

Mr. Speaker, indeed, again this year the Speaker could not move quickly enough to support the President's request for a special waiver to grant Most Favored Nation status to the People's Republic of China. He sent a letter of support to the President almost before the request for the special waiver reached Capitol Hill.

I see this Select Committee as an attempt by the Speaker to seek cover for his affiliation with the President on the China policy. Do they think we have no memory? Do they think we do not know what we say on the floor year in and year out by the proliferation and the Chinese mobilization and their interest in acquiring U.S. technology and then all of a sudden the obvious, predictable consequences of that policy, obvious and predictable to many of us, is all of a sudden being investigated by a Speaker who, day in day out, time and time again, and at every opportunity has supported ignoring those concerns?

And so, I see this as an attempt to set up this committee as venue hopping. There have been investigations. I can show my colleagues a stack of reports on committees investigating this issue.

As I say, I believe, and I do not deny Congress's right to oversight, to investigate, and to be relentless in doing that in terms of the consequences of policy.

Establishing this Select Committee to me, after all the sweat and strain and work that we have put in trying to educate Congress to the dangers of the policy that the Republican leadership has supported year in and year out, looks to me like a cynical and hypocritical act which does a disservice to the debate about U.S.-China policy, cost the taxpayers money, and wastes Congress' time.

For that reason, I urge my colleagues to defeat the previous question so that the proposal of Mr. CONDIT can be considered to fairly fund and fairly consider how we should go forward with this.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to thank the gentlewoman from California (Ms. PELOSI) for the flattery and to return that flattery twofold, because we have great admiration and respect for her, as well, especially on the issue of human rights around this world.

I would just point out to the gentlewoman, though, that I, for one, have been a critic of previous administrations as well as this administration, even back in 1988, when Congressman Solomon, Congressman Kemp, Congressman Bob Walker, Congressman Lewis wrote to then President Reagan pointing out the serious problems that might occur from military technology transfer and know-how.

On June 13, 1989, that happened to be, I think, 9 days after Tiananmen Square, which the gentlewoman has certainly done everything in her power to try to focus attention on, I introduced legislation that would prohibit the export of satellites intended for launch vehicles from China.

This House adopted that language in the form of an amendment. It went to the Senate. The Senate washed it down; and, consequently, it never became law in its present form. And today the result is that we have 13 intercontinental ballistic missiles aimed at the United States of America, and that is so serious.

□ 1315

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield briefly to the gentlewoman from California because I am running out of time.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding, and, heeding his admonition about the time, I want to say, I said in my remarks that he has standing to speak on this issue. I am very glad that he put on the record the fact that Republican Presidents supported this policy, which he opposed consistently under Republican and Democratic Presidents. It is with admiration for him, the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS) who will represent the Democrats very well on that committee, indeed the American people on that committee. It is not about personalities. It is about the policy.

Mr. SOLOMON. Mr. Speaker, let me just further say if she had been in the Committee on Rules when we had the former CIA Director under President Clinton, Mr. Woolsey, and the former National Security Adviser under President Reagan; they both pointed out that under Presidents Reagan and Bush that the Secretary of Defense did not raise warnings at that time, the Secretary of State did not, the National Security Adviser did not, because of the situation at the time.

Today the times have changed and we all know that the Secretary of Defense, the Secretary of State, the National Security Advisers both have raised warnings, and yet President Clinton did not heed those warnings, for whatever reason, and that is what we really want to look into.

Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me just clear up a couple of points. First we have heard that this is a question about granting waivers and others have granted waivers. That may be the case. But never before in the history of the Republic have we had the question of the influence of foreign money into the process. That is one of the key issues here. Never before have our intelligence, our Department of Defense and our defense process and our national security been so threatened or questioned by allegations that have been made about intrusions into the system.

Let me also say to the gentleman from California (Mr. WAXMAN) who spoke about 25 percent of the staff being given by the majority to the minority. When I came here in the first Congress, from 1993 to 1995, they gave us five investigative staffers for their 55 staffers. That is the record. That is the fact. As a matter of fact, the Burton committee has operated efficiently and at lower cost, assuming the responsibilities of two additional committees and done all their investigations in an administration that has been plagued with more scandals than any in the history of, again, the Republic.

It is somewhat like it is the Republicans' fault that we have had Filegate, Travelgate, campaign contributions and now this very serious matter. They make it look like it is our fault. It is not, and the American people need to know the facts.

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

Mr. Speaker, I would ask the gentleman who just spoke, does the name Warren Harding mean anything to him? Does the name Grant mean anything to him? Does the name Nixon mean anything to him? He made the blanket statement that this is the most scandal-ridden administration in the history of the Republic. I think the gentleman needs to consult some history books.

Mr. Speaker, this vote on ordering the previous question is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. Speaker, I include for the RECORD the amendment by the gentleman from California (Mr. CONDIT).

The text of the amendment is as follows:

Page 2, line 3, strike "resolution shall be considered as adopted." And insert "resolution, modified by the amendment specified in section 2 of this resolution, shall be considered as adopted."

At the end of the resolution add the following new section:

"SEC. 2. The modification described in the first section of this resolution is as follows:

Page 17, line 3, after "paid" insert the following: ", first, out of amounts provided to the Committee on Government Reform and Oversight from the reserve fund for unanticipated expenses of committees under clause 5(a) of rule XI of the Rules of the House of Representatives pursuant to an allocation approved by the Committee on House Oversight on March 25, 1998, which remain unobligated and unexpended as of the date of the adoption of this resolution, and, second, after exhaustion of such funds,".

Page 17, after line 6, add the following new paragraph:

(3) Upon the adoption of this resolution, the Committee on Government Reform and Oversight may not obligate any amounts provided to such committee from the reserve fund for unanticipated expenses of committees under clause 5(a) of rule XI of the Rules of the House of Representatives pursuant to an allocation approved by the Committee on House Oversight on March 25, 1998.

Mr. Speaker, I urge my colleagues to defeat the previous question on H. Res. 476 and allow the gentleman from California (Mr. CONDIT) to offer his amendment to consolidate funding on these parallel investigations.

Mr. Speaker, I include the following material for the RECORD:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's "Precedents of the House of Representatives", (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for a amendment is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership "Manual on the Legislative Process in the United States House of Representatives," (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's "Procedure in the U.S. House of Representatives", the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2). Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It

is one of the only available took for those who oppose the Republican majority's agenda to offer an alternative plan.

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

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time to the gentleman from Sanibel, FL (Mr. GOSS), a very valuable member of the Committee on Rules. He is also the chairman of the Permanent Select Committee on Intelligence and probably one of the most informed Members of this body.

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Florida is recognized for 5½ minutes.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Glens Falls, NY, the honorable chairman of the Committee on Rules, for bringing forward what I think is a very worthwhile resolution. I urge Members to vote "yes" on the question of moving the previous question, I urge a "yes" on the rule and I urge a "yes" on the underlying resolution. So it is yes, yes, yes, is what we have got in front of us here.

Mr. Speaker, my colleagues are talking about fault. I have been hearing from the other side of the aisle fault in the way we went about our business; that we could have done it better if we had done this or that. There has been a lot of fault-finding going on. I can assure the minority that a very strong effort has been made to provide a workable, efficient, bipartisan approach to the task at hand.

Is there a task at hand? You bet there is. There is a task at hand because every day you can pick up the paper and read some new saga unfolding in this area. And if the media is ahead of Congress doing its job of oversight, we have got a problem. I am willing to say that the media is ahead just on the basis of the Jeff Gerth story today in the New York Times alone. So we have got to do something about this.

Now, we have heard some noise about the cost. This is going to cost too much money because we have not limited it the right way or done it exactly the right way. I remember the October Surprise. We went out, we did the job, it cost about a million and a half, something like that. Democrats were very eager to try and prove something. They were unable to do it. We had a good October Surprise event, we closed it down when there was nothing there, and it cost $1.3 million. I am not saying it was money well spent because I never thought there was anything there, but at least we satisfied ourselves. So I think we are very definitely in the ballpark when we look back at October Surprise in how we are approaching money.

Mr. Speaker, the problem with the money is it is virtually impossible to tell how much we are going to spend until we find out how much cooperation we are going to get from the dozens and dozens of witnesses who are not in the United States. That is going to require some expense to get those people who are material to what we are finding out, trying to find out about the truth. Of course, we are going to hope for more forthright cooperation from the administration than we have had to date, because in truth, factually, the administration has not been fully forthcoming to date. So the cost could go up a bit if we fail to have the cooperation of the witnesses and the administration.

We have been challenged about whether or not a select committee is the way to go. We are actually cutting across the jurisdiction of eight standing committees. I do not see any other choice except a select committee. Some say the Permanent Select Committee on Intelligence could do it. Yes, the Permanent Select Committee on Intelligence could do it if we enhanced our staff and we got into what is likely to be the partisan question of campaign finance. Frankly, as chairman of the committee, I do not want to take the nonpartisan Permanent Select Committee on Intelligence into an area that is so sharply partisan and likely to cause partisan question.

With regard to the policy of President Reagan, let me point out, the issue before us is not the policy of President Reagan. It is the change from the policy of President Reagan and President Bush. What caused President Clinton to change the procedure? We have a "why" to ask and an answer to find. The minority report before us, as this is reported today, talks about this is a resolution of routine occurrence and that is a bad thing.

Mr. Speaker, there is nothing routine about the restarting of the nuclear arms race that is going on, which I believe is a result, in part, of the policies that have failed in China. That is certainly the testimony of the Indian Government. We have clearly got exploiters in North Korea who are taking advantage of this proliferation opportunity. We read it in the New York Times. I have not had the chance to talk to North Koreans about this. I would like to. They are exploiting us. So we have something here that is hardly routine facing the United States Congress and our responsibility to the citizens of this country in exercising appropriate oversight about policy and other activities that are happening that are indeed troublesome by admission on both sides of the aisle.

I therefore think we are going in the right direction and doing the right thing.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Washington, my ranking member.

Mr. DICKS. Does the gentleman think once we set up the Select Committee that we ought to let the Select Committee conduct this investigation in the House and that the eight other committees that he mentioned should let us have the field and do the job?

Mr. GOSS. Mr. Speaker, reclaiming my time, I strongly believe that the scope of the resolution takes care of that problem. I am not going to forgo my responsibilities as chairman of the Permanent Select Committee on Intelligence, and I am sure the gentleman is not as the ranking member to discharge the things that we have responsibility for. I would hope for very close working cooperation between the Select Committee and the other committees. And I would hope we could avoid any possible redundancy that way.

Mr. DICKS. I thank the gentleman for yielding. I think he has a good answer.

Mr. GOSS. Mr. Speaker, I urge a "yes" on the previous question vote, a "yes" on the rule, and a "yes" on the resolution.

Mr. Speaker, I include the following material for the RECORD about the previous question vote:

THE PREVIOUS QUESTION VOTE: WHAT IT MEANS

The previous question is a motion made in order under House Rule XVII and is the only parliamentary device in the House used for closing debate and preventing amendment. The effect of adopting the previous question is to bring the resolution to an immediate, final vote. The motion is most often made at the conclusion of debate on a rule or any motion or piece of legislation considered in the House prior to final passage. A Member might think about ordering the previous question in terms of answering the question: Is the House ready to vote on the bill or amendment before it?

In order to amend a rule (other than by using those procedures previously mentioned), the House must vote against ordering the previous question. If the previous question is defeated, the House is in effect, turning control of the Floor over to the Minority party.

If the previous question is defeated, the Speaker then recognizes the Member who led the opposition to the previous question (usually a Member of the Minority party) to control an additional hour of debate during which a germane amendment may be offered to the rule. The Member controlling the Floor then moves the previous question on the amendment and the rule. If the previous question is ordered, the next vote occurs on the amendment followed by a vote on the rule as amended.

Mr. SOLOMON. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 226, nays 197, not voting 11, as follows:

[Roll No. 244]

YEAS—226

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Cooksey
Gonzalez
Green
Hastings (FL)
Martinez
McNulty
Moakley
Moran (VA)
Thune
Torres
Weldon (FL)

□ 1345

Mr. EDWARDS changed his vote from "yea" to "nay."

Mr. WELDON of Pennsylvania and Mr. KASICH changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, did the rule just pass and is the vote over?

The SPEAKER pro tempore. The rule has been adopted.

Mr. SOLOMON. Mr. Speaker, is it true that there will not be another vote now for probably 1 hour?

The SPEAKER pro tempore. There will be 1 hour of debate on the resolution to be called up, so Members might reasonably anticipate an hour before the next vote.

ESTABLISHING THE SELECT COMMITTEE ON U.S. NATIONAL SECURITY AND MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. SOLOMON. Mr. Speaker, pursuant to House Resolution 476, I call up the resolution (H. Res. 463), to establish the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The resolution is considered read for amendment.

The text of House Resolution 463 is as follows:

H. RES. 463

Resolved,

SECTION 1. ESTABLISHMENT.

There is hereby created the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of China, (hereafter in this Act referred to as the "Select Committee"). The Select Committee may sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, has recessed, or has adjourned, as it shall deem appropriate for the completion of its work.

SEC. 2. JURISDICTION.

(a) IN GENERAL.—The Select Committee shall conduct a full and complete inquiry regarding the following matters and report such findings and recommendations, including those concerning the amendment of existing law or the enactment of new law, to the House as it considers appropriate:

(1) The transfer of technology, information, advice, goods, or services that may have contributed to the enhancement of the accuracy, reliability, or capability of nuclear-armed intercontinental ballistic missiles or other weapons of the People's Republic of China, or that may have contributed to the enhancement of the domestic or foreign intelligence capabilities of the People's Republic of China.

(2) The transfer of technology, information, advice, goods, or services that may have contributed to the manufacture of weapons of mass destruction, missiles, or other weapons or armaments by the People's Republic of China.

(3) The effect of any transfer or enhancement referred to in paragraphs (1) or (2) on regional security and the national security of the United States, its friends, and its allies.

(4) The conduct of the executive branch of the United States Government with respect to the transfers or enhancements referred to in paragraphs (1) or (2), and the effect of that conduct on the national security of the United States, its friends, and its allies.

(5) The conduct of defense contractors, weapons manufacturers, satellite manufacturers, and other private or government-owned commercial firms with respect to the transfers or enhancements referred to in paragraphs (1) or (2).

(6) The enforcement of United States law, including statutes, regulations, or executive orders, with respect to the transfers or enhancements referred to in paragraphs (1) or (2).

(7) Any effort by the Government of the People's Republic of China or any other person or entity to influence any of the foregoing matters through political contributions, bribery, influence-peddling, or otherwise.

(8) Decision-making within the executive branch of the United States Government with respect to any of the foregoing matters.

(9) Any effort to conceal or withhold information or documents relevant to any of the foregoing matters or to otherwise obstruct justice, or to obstruct the work of the Select Committee or any other committee of the Congress in connection with those matters.

(10) All matters relating directly or indirectly to any of the foregoing matters.

(b) PERMITTING REPORTS TO BE MADE TO HOUSE IN SECRET SESSION.—Any report to the House pursuant to this section may, in the Select Committee's discretion, be made under the provisions of rule XXIX of the Rules of the House of Representatives.

SEC. 3. COMPOSITION; VACANCIES.

(a) COMPOSITION.—The Select Committee shall be composed of 8 Members of the House to be appointed by the Speaker of the House of Representatives, one of whom he shall designate as Chairman. Service on the Select Committee shall not count against the limitations on committee service in clause 6(b)(2) of rule X.

(b) VACANCIES.—Any vacancy occurring in the membership of the Select Committee shall be filled in the same manner in which the original appointment was made.

SEC. 4. RULES APPLICABLE TO SELECT COMMITTEE.

(a) QUORUM.—One-third of the members of the Select Committee shall constitute a quorum for the transaction of business other than the reporting of a matter, which shall require a majority of the committee to be actually present, except that the Select Committee may designate a lesser number, but not less than two, as a quorum for the purpose of holding hearings to take testimony and receive evidence.

(b) APPLICABILITY OF HOUSE RULES.—The Rules of the House of Representatives applicable to standing committees shall govern the Select Committee where not inconsistent with this resolution.

(c) RULES OF SELECT COMMITTEE.—The Select Committee shall adopt additional written rules, which shall be public, to govern its procedures, which shall not be inconsistent with this resolution or the Rules of the House of Representatives.

SEC. 5. CLASSIFIED INFORMATION.

No employee of the Select Committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has—

(1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the Select Committee as to the security of such information during and after the period of his employment or contractual agreement with the Select Committee); and

(2) received an appropriate security clearance as determined by the Select Committee in consultation with the Director of Central Intelligence.

The type of security clearance to be required in the case of any such employee or person shall, within the determination of the Select Committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 6. LIMITS ON DISCLOSURE OF INFORMATION.

The Select Committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. PROCEDURES FOR HANDLING INFORMATION.

(a) The Select Committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the Select Committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section. In any case in which the Select Committee votes to disclose publicly any information, which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, the Select Committee shall submit such classified information to the Permanent Select Committee on Intelligence.

(b)(1) As set forth in clause 7(b) of rule XLVIII, in any case in which the Permanent Select Committee on Intelligence votes to disclose publicly any information submitted pursuant to subsection (a), which has been classified under established security procedures, which has been submitted to the Select Committee by the executive branch, and which the executive branch has requested be kept secret, the Permanent Select Committee on Intelligence shall notify the President of such vote.

(2) The Permanent Select Committee on Intelligence may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the Permanent Select Committee on Intelligence that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the Permanent Select Committee on Intelligence of his objections to the disclosure of such information as provided in paragraph (2), the Permanent Select Committee on Intelligence may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The Permanent Select Committee on Intelligence shall not publicly disclose such information without leave of the House.

(4) Whenever the Permanent Select Committee on Intelligence votes to refer the question of disclosure of any information to the House under paragraph (3), the chairman of the Permanent Select Committee on Intelligence shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the Permanent Select Committee on Intelligence to consider, in closed session, the matter reported under paragraph (4), then such a motion will be deemed privileged and may be made by any Member. The motion under this paragraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion, except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be authorized to declare a recess subject to the call of the Chair. At the expiration of such recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the Permanent Select Committee on Intelligence?"

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session but without divulging the information with respect to which the vote is being taken. If the recommendation of the Permanent Select Committee on Intelligence is not agreed to, the question shall be deemed recommitted to the Permanent Select Committee on Intelligence for further recommendation.

(c)(1) No information in the possession of the Select Committee relating to the lawful intelligence or intelligence-related activities of any department or agency of the United States which has been classified under established security procedures and which the Select Committee, the Permanent Select Committee on Intelligence, or the House pursuant to this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in paragraph (2).

(2) The Select Committee shall, under such regulations as the committee shall prescribe, make any information described in paragraph (1) available to any other committee or any other Member of the House and permit any other Member of the House to attend any hearing of the committee which is closed to the public. Whenever the Select Committee makes such information available (other than to the Speaker), the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this paragraph, shall disclose such information except in a closed session of the House.

(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of subsection (c) and report to the House concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such as censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 8. TRANSFER OF INFORMATION TO SELECT COMMITTEE.

Any committee of the House of Representatives having custody of records, data, charts, and files concerning subjects within the jurisdiction of the Select Committee shall furnish the originals or copies of such materials to the Select Committee. In the case of the Permanent Select Committee on Intelligence, such materials shall be made available pursuant to clause 7(c)(2) of rule XLVIII.

SEC. 9. INFORMATION GATHERING.

(a) IN GENERAL.—The Select Committee is authorized to require, by subpoena or otherwise, the attendance and testimony of such witnesses, the furnishing of such information by interrogatory, and the production of such books, records, correspondence, memoranda, papers, documents, calendars, recordings, electronic communications, data compilations from which information can be obtained, tangible objects, and other things and information of any kind as it deems necessary, including all intelligence materials however classified, White House materials, and materials pertaining to unvouchered expenditures or concerning communications interceptions or surveillance.

(b) SUBPOENAS, DEPOSITIONS AND INTERROGATORIES.—Unless otherwise determined by the Select Committee, the Chairman, upon consultation with the ranking minority member, or the Select Committee may—

(1) authorize and issue subpoenas;

(2) order the taking of depositions, interrogatories, or affidavits under oath or otherwise; and

(3) designate a member or staff of the Select Committee to conduct any deposition.

(c) INTERNATIONAL AUTHORITIES.—Unless otherwise determined by the Select Committee, the Chairman of the Select Committee, upon consultation with the ranking minority member of the Select Committee, or the Select Committee may—

(1) order the taking of depositions and other testimony, under oath or otherwise, anywhere outside the United States; and

(2) make application for issuance of letters rogatory, and request through appropriate channels, other means of international assistance, as appropriate.

(d) HANDLING OF INFORMATION.—Information obtained under the authority of this section shall be—

(1) considered as taken by the Select Committee in the District of Columbia, as well as the location actually taken; and

(2) considered to be taken in executive session.

SEC. 10. TAX RETURNS.

Pursuant to sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, for the purpose of investigating the subjects set forth in this resolution and since information necessary for this investigation cannot reasonably be obtained from any other source, the Select Committee shall be specially authorized to inspect and receive for the tax years 1991 through 1998 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to individuals and entities named by the Select Committee as possible participants, beneficiaries, or intermediaries in the transactions under investigation. As specified by section 6103(f)(3) of the Internal Revenue Code of 1986, such materials and information shall be furnished in closed executive session.

SEC. 11. ACCESS TO INFORMATION OF THE SELECT COMMITTEE.

The Select Committee shall provide other committees and Members of the House with access to information and proceedings, consistent with clause 7(c)(2) of rule XLVIII, except that the Select Committee may direct that particular matters or classes of matter shall not be made available to any person by its members, staff, or others, or may impose any other restriction. The Select Committee may require its staff to enter nondisclosure agreements, and its chairman, in consultation with the ranking minority member, may require others, such as counsel for witnesses, to do so. The Committee on Standards of Official Conduct may investigate any unauthorized disclosure of such classified information by a Member, officer, or employee of the House or other covered person upon request of the Select Committee. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant unauthorized disclosure, it shall report its findings to the House and recommend appropriate sanctions for the Member, officer, employee, or other covered person consistent with clause 7(e) of rule XLVIII and any committee restriction, including nondisclosure agreements. The Select Committee shall, as appropriate, provide access to information and proceedings to the Speaker and the minority leader and their appropriately cleared and designated staff.

SEC. 12. COOPERATION OF OTHER ENTITIES.

(a) COOPERATION OF OTHER COMMITTEES.—The Select Committee may submit to any standing committee specific matters within its jurisdiction and may request that such committees pursue such matters further.

(b) COOPERATION OF OTHER FEDERAL ENTITIES.—The Chairman of the Select Committee, upon consultation with the ranking minority member, or the Select Committee may request investigations, reports, and other assistance from any agency of the executive, legislative, and judicial branches of the Federal Government.

SEC. 13. ACCESS AND RESPONSE TO JUDICIAL PROCESS.

In addition to any applications to court in response to judicial process that may be made in behalf of the House by its counsel, the Select Committee shall be authorized to respond to any judicial or other process, or to make any applications to court, upon consultation with the Speaker consistent with rule L.

SEC. 14. ADMINISTRATIVE MATTERS.

(a) PERSONNEL.—The Chairman, upon consultation with the ranking minority member, may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, clerical and stenographic assistants, and other appropriate staff as the Chairman considers necessary to carry out the purposes of this resolution. Detailees from the executive branch or staff of the House or a joint committee, upon the request of the Chairman of the Select Committee, upon consultation with the ranking minority member, shall be deemed staff of the Select Committee to the extent necessary to carry out the purposes of this resolution.

(b) PAYMENT OF EXPENSES.—(1) The Select Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Select Committee.

(2) Not more than $2,500,000 are authorized for expenses of the Select Committee for investigations and studies, including for the procurement of the services of individual consultants or organizations thereof, and for training of staff, to be paid out of the applicable accounts of the House of Representatives upon vouchers signed by the Chairman and approved in the manner directed by the Committee on House Oversight.

SEC. 15. APPLICABILITY OF OTHER LAWS TO SELECT COMMITTEE.

The Select Committee shall be deemed a committee of the House for all purposes of the rules of the House of Representatives and shall be deemed a committee for all purposes of law, including, but not limited to, section 202(f) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(f)), sections 102 and 104 of the Revised Statutes (2 U.S.C. 192 and 194), sections 1001, 1505, 1621, 6002, and 6005 of title 18, United States Code, section 502(b)(1)(B)(ii) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)(1)(B)(ii)), and section 734 of title 31, United States Code.

SEC. 16. DISPOSITION OF RECORDS.

At the conclusion of the existence of the Select Committee, all records of the Select Committee shall be transferred to other committees, or stored by the Clerk of the House, as directed by the Select Committee, consistent with applicable rules and law concerning classified information.

The SPEAKER pro tempore. Pursuant to House Resolution 476, the amendment in the nature of a substitute printed in the resolution is adopted.

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

Resolved,

SECTION 1. ESTABLISHMENT.

There is hereby created the Select Committee on U.S. National Security and Military/Commercial Concerns With the People's Republic of

China, (hereafter in this resolution referred to as the "Select Committee"). The Select Committee may sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or in any other country, whether the House is in session, has recessed, or has adjourned, as it shall deem appropriate for the completion of its work.

SEC. 2. JURISDICTION.

(a) IN GENERAL.—The Select Committee shall conduct a full and complete inquiry regarding the following matters and report such findings and recommendations, including those concerning the amendment of existing law or the enactment of new law, to the House as it considers appropriate:

(1) The transfer of technology, information, advice, goods, or services that may have contributed to the enhancement of the accuracy, reliability, or capability of nuclear-armed intercontinental ballistic missiles or other weapons of the People's Republic of China, or that may have contributed to the enhancement of the intelligence capabilities of the People's Republic of China.

(2) The transfer of technology, information, advice, goods, or services that may have contributed to the manufacture of weapons of mass destruction, missiles, or other weapons or armaments by the People's Republic of China.

(3) The effect of any transfer or enhancement referred to in paragraphs (1) or (2) on regional security and the national security of the United States.

(4) The conduct of the executive branch of the United States Government with respect to the transfers or enhancements referred to in paragraphs (1) or (2), and the effect of that conduct on regional security and the national security of the United States.

(5) The conduct of defense contractors, weapons manufacturers, satellite manufacturers, and other private or government-owned commercial firms with respect to the transfers or enhancements referred to in paragraphs (1) or (2).

(6) The enforcement of United States law, including statutes, regulations, or executive orders, with respect to the transfers or enhancements referred to in paragraphs (1) or (2).

(7) Any effort by the Government of the People's Republic of China or any other person or entity to influence any of the foregoing matters through political contributions, commercial arrangements, or bribery, influence-peddling, or other illegal activities.

(8) Decision-making within the executive branch of the United States Government with respect to any of the foregoing matters.

(9) Any effort to conceal or withhold information or documents relevant to any of the foregoing matters or to obstruct justice, or to obstruct the work of the Select Committee or any other committee of the House of Representatives in connection with those matters.

(10) All matters relating directly or indirectly to any of the foregoing matters.

(b) PERMITTING REPORTS TO BE MADE TO HOUSE IN SECRET SESSION.—Any report to the House pursuant to this section may, in the Select Committee's discretion, be made under the provisions of rule XXIX of the Rules of the House of Representatives.

SEC. 3. COMPOSITION; VACANCIES.

(a) COMPOSITION.—The Select Committee shall be composed of 9 or fewer Members of the House to be appointed by the Speaker of the House of Representatives, one of whom he shall designate as Chairman. Service on the Select Committee shall not count against the limitations on committee service in clause 6(b)(2) of rule X.

(b) VACANCIES.—Any vacancy occurring in the membership of the Select Committee shall be filled in the same manner in which the original appointment was made.

SEC. 4. RULES APPLICABLE TO SELECT COMMITTEE.

(a) QUORUM.—One-third of the members of the Select Committee shall constitute a quorum for the transaction of business other than the reporting of a matter, which shall require a majority of the committee to be actually present, except that the Select Committee may designate a lesser number, but not less than 2, as a quorum for the purpose of holding hearings to take testimony and receive evidence.

(b) APPLICABILITY OF HOUSE RULES.—The Rules of the House of Representatives applicable to standing committees shall govern the Select Committee where not inconsistent with this resolution.

(c) RULES OF SELECT COMMITTEE.—The Select Committee shall adopt additional written rules, which shall be public, to govern its procedures, which shall not be inconsistent with this resolution or the Rules of the House of Representatives.

SEC. 5. CLASSIFIED INFORMATION.

No employee of the Select Committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has—

(1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the Select Committee as to the security of such information during and after the period of his employment or contractual agreement with the Select Committee); and

(2) received an appropriate security clearance as determined by the Select Committee in consultation with the Director of Central Intelligence.

The type of security clearance to be required in the case of any such employee or person shall, within the determination of the Select Committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 6. LIMITS ON DISCLOSURE OF INFORMATION.

The Select Committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. PROCEDURES FOR HANDLING INFORMATION.

(a) The Select Committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the Select Committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section. In any case in which the Select Committee votes to disclose publicly any information, which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, the Select Committee shall submit such classified information to the Permanent Select Committee on Intelligence.

(b)(1) As set forth in clause 7(b) of rule XLVIII, in any case in which the Permanent Select Committee on Intelligence votes to disclose publicly any information submitted pursuant to subsection (a), which has been classified under established security procedures, which has been submitted to the Select Committee by the executive branch, and which the executive branch has requested be kept secret, the Permanent Select Committee on Intelligence shall notify the President of such vote.

(2) The Permanent Select Committee on Intelligence may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the Permanent Select Committee on Intelligence that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the Permanent Select Committee on Intelligence of his objections to the disclosure of such information as provided in paragraph (2), the Permanent Select Committee on Intelligence may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The Permanent Select Committee on Intelligence shall not publicly disclose such information without leave of the House.

(4) Whenever the Permanent Select Committee on Intelligence votes to refer the question of disclosure of any information to the House under paragraph (3), the chairman of the Permanent Select Committee on Intelligence shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the Permanent Select Committee on Intelligence to consider, in closed session, the matter reported under paragraph (4), then such a motion will be deemed privileged and may be made by any Member. The motion under this paragraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion, except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be authorized to declare a recess subject to the call of the Chair. At the expiration of such recess, the pending question, in closed session, shall be, "Shall the House approve the recommendation of the Permanent Select Committee on Intelligence?"

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session but without divulging the information with respect to

which the vote is being taken. If the recommendation of the Permanent Select Committee on Intelligence is not agreed to, the question shall be deemed recommitted to the Permanent Select Committee on Intelligence for further recommendation.

(c)(1) No information in the possession of the Select Committee relating to the lawful intelligence or intelligence-related activities of any department or agency of the United States which has been classified under established security procedures and which the Select Committee, the Permanent Select Committee on Intelligence, or the House pursuant to this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in paragraph (2).

(2) The Select Committee shall, under such regulations as the committee shall prescribe, make any information described in paragraph (1) available to any other committee or any other Member of the House and permit any other Member of the House to attend any hearing of the committee which is closed to the public. Whenever the Select Committee makes such information available (other than to the Speaker), the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this paragraph, shall disclose such information except in a closed session of the House.

(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of subsection (c) and report to the House concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation, together with its findings. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such as censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 8. TRANSFER OF INFORMATION TO SELECT COMMITTEE.

Any committee of the House of Representatives having custody of records, data, charts, and files concerning subjects within the jurisdiction of the Select Committee shall furnish the originals or copies of such materials to the Select Committee. In the case of the Permanent Select Committee on Intelligence, such materials shall be made available pursuant to clause 7(c)(2) of rule XLVIII.

SEC. 9. INFORMATION GATHERING.

(a) IN GENERAL.—The Select Committee is authorized to require, by subpoena or otherwise, the attendance and testimony of such witnesses, the furnishing of such information by interrogatory, and the production of such books, records, correspondence, memoranda, papers, documents, calendars, recordings, electronic communications, data compilations from which information can be obtained, tangible objects, and other things and information of any kind as it deems necessary, including all intelligence materials however classified, White House materials, and materials pertaining to unvouchered expenditures or concerning communications interceptions or surveillance.

(b) SUBPOENAS, DEPOSITIONS AND INTERROGATORIES.—Unless otherwise determined by the Select Committee, the Chairman, upon consultation with the ranking minority member, or the Select Committee may—

(1) authorize and issue subpoenas;

(2) order the taking of depositions, interrogatories, or affidavits under oath or otherwise; and

(3) designate a member or staff of the Select Committee to conduct any deposition.

(c) INTERNATIONAL AUTHORITIES.—Unless otherwise determined by the Select Committee, the Chairman of the Select Committee, upon consultation with the ranking minority member of the Select Committee, or the Select Committee may—

(1) authorize the taking of depositions and other testimony, under oath or otherwise, anywhere outside the United States; and

(2) make application for issuance of letters rogatory, and request through appropriate channels, other means of international assistance, as appropriate.

(d) HANDLING OF INFORMATION.—Information obtained under the authority of this section shall be—

(1) considered as taken by the Select Committee in the District of Columbia, as well as the location actually taken; and

(2) considered to be taken in executive session.

SEC. 10. TAX RETURNS.

Pursuant to sections 6103(f)(3) and 6104(a)(2) of the Internal Revenue Code of 1986, for the purpose of investigating the subjects set forth in this resolution and since information necessary for this investigation cannot reasonably be obtained from any other source, the Select Committee shall be specially authorized to inspect and receive for the tax years 1988 through 1998 any tax return, return information, or other tax-related material, held by the Secretary of the Treasury, related to individuals and entities named by the Select Committee as possible participants, beneficiaries, or intermediaries in the transactions under investigation. As specified by section 6103(f)(3) of the Internal Revenue Code of 1986, such materials and information shall be furnished in closed executive session.

SEC. 11. ACCESS TO INFORMATION OF THE SELECT COMMITTEE.

The Select Committee shall provide other committees and Members of the House with access to information and proceedings, consistent with clause 7(c)(2) of rule XLVIII, except that the Select Committee may direct that particular matters or classes of matter shall not be made available to any person by its members, staff, or others, or may impose any other restriction. The Select Committee may require its staff to enter nondisclosure agreements, and its chairman, in consultation with the ranking minority member, may require others, such as counsel for witnesses, to do so. The Committee on Standards of Official Conduct may investigate any unauthorized disclosure of such classified information by a Member, officer, or employee of the House or other covered person upon request of the Select Committee. If, at the conclusion of its investigation, the Committee on Standards of Official Conduct determines that there has been a significant unauthorized disclosure, it shall report its findings to the House and recommend appropriate sanctions for the Member, officer, employee, or other covered person consistent with clause 7(e) of rule XLVIII and any committee restriction, including nondisclosure agreements. The Select Committee shall, as appropriate, provide access to information and proceedings to the Speaker and the minority leader and an appropriately cleared and designated member of each staff.

SEC. 12. COOPERATION OF OTHER ENTITIES.

(a) COOPERATION OF OTHER COMMITTEES.—The Select Committee may submit to any standing committee specific matters within its jurisdiction and may request that such committees pursue such matters further.

(b) COOPERATION OF OTHER FEDERAL ENTITIES.—The Chairman of the Select Committee, upon consultation with the ranking minority member, or the Select Committee may request investigations, reports, and other assistance from any agency of the executive, legislative, and judicial branches of the Federal Government.

SEC. 13. ACCESS AND RESPONSE TO JUDICIAL PROCESS.

In addition to any applications to court in response to judicial process that may be made in behalf of the House by its counsel, the Select Committee shall be authorized to respond to any judicial or other process, or to make any applications to court, upon consultation with the Speaker consistent with rule L.

SEC. 14. ADMINISTRATIVE MATTERS.

(a) PERSONNEL.—The Chairman, upon consultation with the ranking minority member, may employ and fix the compensation of such clerks, experts, consultants, technicians, attorneys, investigators, clerical and stenographic assistants, and other appropriate staff as the Chairman considers necessary to carry out the purposes of this resolution. Detailees from the executive branch or staff of the House or a joint committee, upon the request of the Chairman of the Select Committee, upon consultation with the ranking minority member, shall be deemed staff of the Select Committee to the extent necessary to carry out the purposes of this resolution.

(b) PAYMENT OF EXPENSES.—(1) The Select Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Select Committee.

(2) Not more than $2,500,000 are authorized for expenses of the Select Committee for investigations and studies, including for the procurement of the services of individual consultants or organizations thereof, and for training of staff, to be paid out of the applicable accounts of the House of Representatives upon vouchers signed by the Chairman and approved in the manner directed by the Committee on House Oversight.

SEC. 15. APPLICABILITY OF OTHER LAWS TO SELECT COMMITTEE.

The Select Committee shall be deemed a committee of the House for all purposes of the rules of the House of Representatives and shall be deemed a committee for all purposes of law, including, but not limited to, section 202(f) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(f)), sections 102 and 104 of the Revised Statutes (2 U.S.C. 192 and 194), sections 1001, 1505, 1621, 6002, and 6005 of title 18, United States Code, section 502(b)(1)(B)(ii) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)(1)(B)(ii)), and section 734 of title 31, United States Code.

SEC. 16. DISPOSITION OF RECORDS.

At the conclusion of the existence of the Select Committee, all records of the Select Committee shall be transferred to other committees, or stored by the Clerk of the House, as directed by the Select Committee, consistent with applicable rules and law concerning classified information.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) and the gentleman from Texas (Mr. FROST) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. SOLOMON).

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

Today the Committee on Rules brings to the floor this resolution establishing a Select Committee of the

House on United States National Security and Military/Commercial Concerns With the People's Republic of China.

Beginning in April of this year, Mr. Speaker, the New York Times has focused on the somewhat sordid history of the transfer of American satellite technology to Communist China. These press accounts have asserted, Mr. Speaker, that American national security has been severely damaged, and campaign contributions may have been a factor in the decisions made.

Mr. Speaker, there has been bipartisan commentary in this Congress and in our national public debate agreeing that there is a pressing need to get to the bottom of this matter that does affect the national security of our country.

The resolution before the House will establish a select committee to answer, among other things, did the transfer of technology contribute to the enhancement of the accuracy of nuclear armed intercontinental ballistic missiles of the People's Republic of China, missiles that right this minute are aimed at the United States of America?

Did these transfers contribute to the manufacture of weapons of mass destruction by the People's Republic of China?

What effect did these transfers have on U.S. national security?

Was there any effort by the People's Republic of China or other person or entity to influence these matters through political contributions, commercial arrangements, or bribery, influence peddling or other illegal activities?

Keep in mind, Mr. Speaker, we ought to remember the Foreign Corrupt Practices Act, because it may very well be involved in this situation here today.

Mr. Speaker, every Member of this House would agree that these are critical and serious questions which deserve to have truthful answers.

Mr. Speaker, this resolution is brought forward in a bipartisan spirit, a development which brings great credit I think to this House. I applaud the work of the gentleman from California (Mr. COX) sitting to my right, the proposed chairman of this select committee, and the gentleman from Washington (Mr. DICKS), again, one of the most respected and admired Members of this House, the proposed ranking member of the Select Committee.

These two honorable gentlemen worked out a package of bipartisan improvements to the legislation that I introduced several days ago, which the Committee on Rules was pleased to incorporate during the markup. We have taken all of their suggestions so that there is nothing controversial in this resolution before us right now.

Now, Mr. Speaker and Members, every American citizen is deeply concerned about nuclear proliferation around this world, whether it be in India, whether it be in Pakistan, in North Korea, in other rogue states like Iran, Iraq and Libya. Mr. Speaker, they are concerned that in the People's Republic of China, that in the last decade has been able to develop and now deploy intercontinental ballistic missiles, according to our estimates and that of the press, 13 of the 18 are aimed at the United States of America.

Mr. Speaker, as we all know, President Clinton is fond of defending his "commerce-at-any-cost" policy toward China by saying that he is merely continuing the policy of previous Republican Presidents. Mr. Speaker, last Tuesday we heard from Richard Allen, who knows a little bit about previous Republican policy. He was in the Nixon administration during the opening of China in 1972, whether that was right or wrong, and was National Security Adviser to President Reagan during the early years of his presidency.

Mr. Allen said that given today's changed context, and this is very, very important, given today's changed context, it is patently obvious to him that President Nixon or President Reagan or President Bush would have caused this policy to study the cumulative impact of these massive transfers of technology to a country like China.

Mr. Allen also offered this commonsense piece of wisdom that has so far eluded the Clinton administration. He said, quote, "If a policy does not work any longer, you reevaluate it, you adjust it according to those new circumstances."

Also, and this is terribly, terribly important, we heard from Jim Woolsey, who was President Clinton's first CIA director. What I found stunning about his testimony, Mr. Speaker, was the array of different materials and technologies that we have recently begun selling to China. This was his testimony: "In addition to satellites, we are now giving China aircraft machine tools that can be used to construct military aircraft; we are giving them supercomputers that can be used to build and test nuclear weapons with more accuracy than they even have today. We are giving them high-temperature furnaces that also have nuclear uses. We are giving them encryption technology and cruise missile technology," all of which is very ominous, Mr. Speaker, to the future of this country. This is absolutely incredible in light of what is going on in the world today with nuclear proliferation around this world.

Just 2 days ago a headline appeared noting that China not only continues to help Iran, but also Libya. Here is the article. This article is from the Washington Times and was repeated in the New York Times and in the Washington Post. It says, "China Assists Iran, Libya on Missile Sales."

Mr. Speaker, Libya, as Members are well aware, has nuclear weapons programs, and the assistance continues after innumerable promises by the Chinese that they have stopped these transfers.

Mr. Speaker, another headline recently was that North Korea has thumbed its nose at the Clinton administration and at this country and said that it too would continue to export its military technology, much of which has been provided by China, to its rogue friends around the world.

Mr. Speaker, we know our technology transfer policies, our nonproliferation policies, and our overall China policies are bankrupt. They have to be changed. What we do not know, Mr. Speaker, at this point is exactly how we got into this mess and whether and how all of these developments are connected.

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We also do not know the full extent of the national security damage done to the United States of America. And I pointed out, this is not just me standing here saying so, Mr. Speaker.

Here is a cartoon that appeared in a local newspaper and these are typical of cartoons appearing around the country. It is a picture of the White House and up in the corner it is President Clinton saying, "Relax, Hillary, I have convinced the Chinese to return the technology." Well, Mr. Speaker, then there is a picture of an intercontinental ballistic missile; that is the technology that is being returned to the United States of America at the White House. That is how serious this matter is.

Mr. Speaker, all of these revelations that I have alluded to have appeared in mainstream press accounts across this country and, Mr. Speaker, at this point I insert in the RECORD a series of articles from the New York Times and other publications that document what we know so far.

[From the New York Times, Apr. 4, 1998]

COMPANIES ARE INVESTIGATED FOR AID TO CHINA ON ROCKETS

(By Jeff Gerth with Raymond Bonner)

A Federal grand jury is investigating whether two American companies illegally gave China space expertise that significantly advanced Beijing's ballistic missile program, according to Administration officials.

But the officials said the criminal inquiry was dealt a serious blow two months ago when President Clinton quietly approved the export to China of similar technology by one of the companies under investigation.

The decision was opposed by Justice Department officials, who argued that it would be much more difficult to prosecute the companies if the Government gave its blessing to the deal, the officials said.

Under investigation, the officials said, are Loral Space and Communications of Manhattan and Hughes Electronics, a Los Angeles-based division of the General Motors Corporation. The companies denied wrongdoing, but declined to discuss the investigation.

Loral has numerous business deals with China and close ties to the White House. Its

chairman and chief executive, Bernard L. Schwartz, was the largest personal contributor to the Democratic National Committee last year.

Loral's vice president for government relations, Thomas B. Ross, said Mr. Schwartz had not spoken about the matter with Mr. Clinton or any other Administration official.

The Federal inquiry stems from a 1996 incident in which a Chinese rocket carrying aloft a satellite built by Loral exploded shortly after liftoff. The two companies took part in an independent review of the failure, and reported to the Chinese on what went wrong.

Those exchanges, officials believe, may have gone beyond the sharing of information that the companies had been permitted, giving the Chinese crucial assistance in improving the guidance systems of their rockets. The technology needed to put a commercial satellite in orbit is similar to that which guides a long-range nuclear missile to its target.

In February, with the investigation of this incident well under way, Mr. Clinton gave Loral permission to launch another satellite on a Chinese rocket and provide the Chinese with the same expertise that is at issue in the criminal case, officials said.

A senior official said the Administration recognized the sensitivity of the decision, but approved the launching because the investigation had reached no conclusions and because Loral had properly handled subsequent launchings. The Administration, he said, could still take administrative action against the companies if they were found to have violated export laws in their earlier dealings with the Chinese.

Michael D. McCurry, the White House spokesman, said the launching that President Clinton approved in February "will not contribute to Chinese military capabilities" because Loral has agreed to "stringent safeguards" to prevent the unauthorized transfer of technology.

Emery Wilson, public relations manager for Hughes Space and Communications, a division of Hughes Electronics, said the company had not been notified of any Federal criminal investigation.

"In response to a letter from the State Department," Mr. Wilson said, "we conducted a thorough review and concluded that no Hughes employee had engaged in the unauthorized export of controlled technology or equipment."

The Administration has been hoping to reach a broader agreement with Beijing that would make it much easier to launch American satellites on China's rockets. Mr. Clinton is to visit China this summer in the first Presidential trip to the country since the suppression of the pro-democracy movement in the 1989 Tiananmen Square massacre.

There are huge commercial interests at stake. A host of companies, from cellular telephone networks to international television conglomerates, are waiting in line for low-cost satellites to be sent into orbit. An important bottleneck facing the companies is a shortage of rocket systems available to launch satellites.

China is eager to offer its low-cost—but not always reliable—services.

For American companies, there is a significant complication. All American satellites sent into orbit by China's rockets require Presidential approval, a waiver of the sanctions imposed after the Tiananmen massacre. Congress must be told of each waiver. Thus far, Presidents Bush and Clinton have issued 11 waivers for satellite launchings.

The policy under consideration by the Clinton Administration would end the case-by-case waivers and would treat future launchings of American satellites like any other export of sensitive technology, which require Government licenses.

Critics in Congress argue that Mr. Clinton is putting commercial interests ahead of national security. They caution that China has yet to prove it will abide by previous pledges it has made not to share missile technology with countries like Iran.

Few nations can deliver intercontinental ballistic missiles. China has lagged because, among other reasons, it lacks the guidance technology, also used for satellites, that allows multiple warheads to be sent from a single missile.

President Clinton signed the waiver to allow the Loral satellite launching on Feb. 18. The waiver states that the deal is "in the national interest."

"We are more engaged with China," Mr. McCurry said. "One area of that engagement has been commercial satellite technology, which we perceive to be in our interests as well as that of China's."

But law-enforcement officials argued against the waiver, saying the approval jeopardized their investigation because it sanctioned the export of essentially the same guidance expertise involved in the possibly illegal transfer two years ago, Administration officials say.

Administration officials said the inquiry is focused on the events following the Feb. 15, 1996, explosion of a Chinese rocket carrying a $200 million Loral satellite seconds after liftoff at the Xichang Satellite Launch Center in Sichuan Province, in southern China.

After the explosion, the Chinese asked two American companies to help conduct an independent study of what went wrong. The team was led by Loral and included two experts from Hughes, according to Hughes.

According to Administration officials, the American experts provided crucial data and information to the Chinese to prevent future accidents. Later, Loral gave a copy of the written report to the State Department, which licenses the export of defense-related items.

Government officials immediately began to assess whether there had been a security breach. Last year, a criminal inquiry was begun by the United States Customs Service and the Department of Justice, officials said.

Under Federal export rules, American companies are supposed to take careful precautions to safeguard classified technology when their satellites are launched by Chinese rockets.

Satellites are shipped to China in sealed containers, and only American officials can mount them in the nose cones of the launching rockets. The Commerce Department approves the export of the satellites. But the more sensitive support activities must be approved by the State Department.

That process is meant to insure tight controls over the testing, repair and maintenance of the satellite so the Chinese cannot learn related classified information.

The State Department license issued several years ago for the Loral satellite was silent on the issue of what role, if any, the American experts could play in an analysis of a failed launching.

After United States companies took part in more than one study of failed Chinese launchings, the Federal Government changed its regulations and now requires companies to obtain a separate license to take a role in any accident review, an Administration official said.

[From the New York Times, Apr. 13, 1998]

U.S. BUSINESS ROLE IN POLICY ON CHINA IS UNDER QUESTION

(By Jeff Gerth)

In the 1992 election, many of America's aerospace manufacturers backed Bill Clinton. But when President Clinton took office, he immediately disappointed some of them on a key issue, barring them from launching their most lucrative satellites on China's low-cost rockets.

The aerospace companies' counterattack was vehement—and effective. After a lobbying campaign that included appeals to the President by C. Michael Armstrong, then the chief executive of Hughes Electronics, Mr. Clinton gradually came to take the industry's side.

But there was an important caveat: The companies had to keep a tight rein on sophisticated technology sought by the Chinese military.

So in May 1997 the Administration was jolted by a classified Pentagon report concluding that scientists from Hughes and Loral Space and Communications had turned over expertise that significantly improved the reliability of China's nuclear missiles, officials said.

The report, whose existence has been secret, prompted a criminal investigation of the companies, which officials said was undermined this year when Mr. Clinton approved Loral's export to China of the same information about guidance systems. Loral's chairman was the largest personal donor to the Democratic Party last year.

An examination of the Administration's handling of the case, based on interviews with Administration officials and industry executive, illustrates the competing forces that buffet Mr. Clinton on China policy. In this instance, the President's desire to limit the spread of missile technology was balanced against the commercial interests of powerful American businesses, many of which were White House allies and substantial supporters of the Democratic Party.

"From the Chinese point of view, this was the key case study on how the Administration would operate on contentious issues," an Administration expert on China said. The message, the official added, was that Administration policy on issues like the spread of weapons and human rights abuses "could be reversed by corporations."

The White House denied any political interference in the issue.

"I am certainly not aware that our policy has been influenced by domestic political considerations," said Gary Samore, the senior director for nonproliferation and export controls at the National Security Council. "From where I sit, this has been handled as a national security issue: seeking to use China's interest in civilian space cooperation as leverage to obtain nonproliferation goals."

The Administration's China policy has come under intense scrutiny in the last year. Congressional investigators have been examining whether China sought to influence policy through illegal campaign contributions to Democratic candidates in 1996. The connection, first suggested in intelligence reports and echoed by Senator Fred Thompson, the Tennessee Republican who led hearings on campaign finance, was never proved.

The handling of the satellite case raises questions about the influence of American contributors on China policy, according to officials.

2 COMPANIES TILT TOWARD DEMOCRATS

Since 1991, the aerospace industry has divided its political contributions equally between Democrats and Republicans. In the

same period, however, Loral and Hughes tilted toward the Democratic Party, giving $2.5 million to Democratic candidates and causes and $1 million to the Republicans.

Administration officials say the contributions played no role in the decisions to permit China to launch American satellites.

"The Government has to balance risks: the risk in not letting American companies get their satellites launched by the Chinese, which would reduce our high-tech advantages, and the inherent risks of technology transfer," said James P. Rubin, the State Department spokesman.

"That's why we impose such strict safeguards, and we are determined to investigate and use our laws to prevent that possibility," Mr. Rubin said.

WAIVERS REQUIRED AFTER TIANANMEN

The criminal investigation of Hughes and Loral has its roots in 1989, when sanctions were imposed after the massacre of pro-democracy demonstrators at Tiananmen Square, requiring a Presidential waiver for satellite launchings. Eleven such waivers have been granted by President Clinton and his predecessor, George Bush.

But in late 1992, American intelligence discovered that Chinese companies had sold missile technology to Pakistan, raising tensions on the subcontinent.

In the first months of Mr. Clinton's Presidency, Democrats and Republicans in Congress pressed the Administration to take action. Mr. Clinton responded with sanctions that barred American companies from sending military goods to any of the Chinese concerns involved in the Pakistan deal.

The move had the effect of halting several pending and future American satellite deals because the Chinese rocket-launching company was one of those under sanctions.

Mr. Armstrong of Hughes, a subsidiary of the General Motors Corporation, wasted no time in getting the President's attention. He wrote two blunt letters in September and October 1993 that reminded Mr. Clinton of his support for several Presidential policy initiatives like the North American Free Trade Agreement, officials said.

He bemoaned his company's loss of business to foreign competitors and requested Mr. Clinton's personal involvement. Hughes's biggest loss, the company says, was the opportunity for a joint satellite manufacturing plant in China, which the Chinese awarded to a European competitor.

CLINTON CONFRONTS DEPARTMENT TUSSLE

A key issue was whether Hughes satellites were civilian or military, a murky question in the export control laws. If the satellites were labeled commercial, the sanctions invoked over the Pakistan deal did not apply. Mr. Armstrong told Mr. Clinton, officials said, that Hughes satellites should not be considered military because their technology did not have military applications.

Soon after the letters, Mr. Clinton assured Mr. Armstrong in an open meeting that he was trying to resolve the tussle between the State Department, which licensed military exports and wanted to keep authority over satellites, and the Commerce Department, which licensed all other exports and was on the side of the satellite industry.

"I'm trying to get on top of this to decide what to do," Mr. Clinton told Mr. Armstrong.

At about the same time, the Administration gave signals that it was moving toward the industry's position. After one signal, Mr. Armstrong sent a letter to a senior White House official relaying a positive reaction from Chinese officials, White House officials said.

In early January 1994, the President sent another positive signal—what Hughes officials then called a "a good first step." Three satellites were labeled as civilian, including one slightly modified Hughes satellite, which allowed their launchings to proceed.

Mr. Clinton's decision helped the industry. But the satellite makers wanted a broader decision that made the Commerce Department the primary licensing authority for virtually all satellites. The Commerce Department weighs the economic consequences when it considers an export license. The State Department looks at security concerns.

In 1994, Loral's chairman and chief executive, Bernard L. Schwartz, went to China with Commerce Secretary Ron Brown. Mr. Brown helped Loral close a mobile telephone satellite network deal in Beijing.

A few weeks later, the President's top political aide, Harold Ickes, wrote a memo to Mr. Clinton in which he said Mr. Schwartz "is prepared to do anything he can for the Administration."

In December 1994, the President selected Mr. Armstrong to head his Export Council.

And the sanctions stemming from the Pakistan sale were lifted in late 1994 as China promised to curb missile sales to other countries.

Still, the satellite industry had not achieved a major objective. So in 1995, Mr. Armstrong sent another letter to Mr. Clinton, signed by Mr. Schwartz, arguing that the Commerce Department should become the primary licensing authority for satellite exports, an industry executive said. (Mr. Armstrong, who recently became the chief executive of AT&T, declined through a spokeswoman to comment.)

The debate not only affected national security but also had enormous commercial implications. The businesses that rely on satellites are highly competitive, and European companies were more than willing to take advantage of China's low-cost services. Without the Chinese, American companies faced long waits to get their satellites sent into orbit because of a shortage of rockets. Satellite technology is crucial to an increasing number of businesses, from cellular telephone networks to global broadcast conglomerates.

CHINESE ROCKET FOR LORAL CRASHES

Finally in March 1996, Mr. Clinton shifted major licensing responsibilities for almost all satellites to the Commerce Department. The State Department retained control over a few highly sophisticated satellites as well as any sensitive support activities, or technical assistance, in connection with civilian satellites.

The industry and the Chinese applauded the action. But the events that followed a failed launching in China immediately raised questions about whether the new policy sent a wrong signal.

On Feb. 15, 1996, a Chinese rocket carrying a $200 million Loral satellite crashed 22 seconds after liftoff at the Xichang Satellite Launching Center in southern China.

Chinese officials needed to figure out what went wrong. By April an outside review commission, headed by Loral, was assembled to help the Chinese study the accident. It included two scientists from Hughes.

On May 10, the commission completed a preliminary report, based on over "200 pages of data, analysis evaluation and reports," documents show. It found that the cause of the accident was an electrical flaw in the electronic flight control system.

But the report, which was promptly shared with the Chinese, discussed other sensitive aspects of the rocket's guidance and control systems, which is an area of weakness in China's missile programs, according to Government and industry officials.

The State Department learned about the report and made contact with Loral.

Loral, in what officials said was a cooperative effort, provided the review commission's report and a long letter explaining what happened. Loral told other commission members, including the two Hughes scientists, to retrieve all copies of the report because of the serious security concerns of the Government, officials said,

But the two Hughes employees believed that there was no legal obligation to comply with the request, officials also said. In late May, Hughes received a letter from the State Department charging that the transfer of information was a violation of the arms export control laws, according to officials. Loral received no such letter.

One year later, the Pentagon completed its damage assessment of the incident. It concluded, officials said, that "United States national security has been harmed."

The Pentagon report prompted a criminal investigation into Loral and Hughes by the Justice Department and the Customs Service. The companies say their employees have acted properly, but they decline to discuss the matter.

One key issue is whether the data turned over to the Chinese required a State Department license and, if so, whether the company officials were aware of that fact. The criminal inquiry has found evidence that several days before the review committee had its first meeting with Chinese officials, Loral executives were told by their security advisers that any sharing of information required a State Department license, according to Administration officials. Loral never sought a license, but it may have sounded out the State Department.

An industry official said Loral had immediately told the State Department about the review commission meeting with the Chinese but had received no reply.

MORE HIGH-TECH DATA EXPORTED RECENTLY

Whatever the evidence, criminal charges may never be brought because Mr. Clinton approved the export to China by Loral of similar satellite guidance information two months ago. He acted despite the strong opposition of the Justice Department, whose officials argued that the approval would seriously undercut any criminal case.

The required notice to Congress by the President of his action was sent during a recess.

Administration officials say the decision was politically sensitive but correct because no wrongdoing had been proven and Loral had subsequently acted responsibly.

Since the inquiry began, Beijing and Washington have been exploring even more space cooperation.

Last fall President Jiang Zemin visited the United States and stopped at a Hughes site to talk about satellites. In advance of Mr. Clinton's trip to China in June, the Administration is seeking a broader agreement with Beijing on space cooperation.

But the chairman of the House International Relations Committee, Benjamin A. Gilman, Republican of New York, says the Administration should provide a "thorough review" of the Hughes-Loral case to Congress before it goes ahead with a plan to expedite approvals for American satellite launchings by China.

[From the New York Times, May 15, 1998]

DEMOCRAT FUND-RAISER SAID TO DETAIL CHINA TIE

(By Jeff Gerth)

(This article is based on reporting by Jeff Gerth, David Johnston and Don Van Natta and was written by Mr. Gerth.)

A Democratic fund-raiser has told Federal investigators he funneled tens of thousands of dollars from a Chinese military officer to the Democrats during President Clinton's 1996 re-election campaign, according to lawyers and officials with knowledge of the Justice Department's campaign finance inquiry.

The fund-raiser, Johnny Chung, told investigators that a large part of the nearly $100,000 he gave to Democratic causes in the summer of 1996—including $80,000 to the Democratic National Committee—came from China's People's Liberation Army through a Chinese lieutenant colonel and aerospace executive whose father was Gen. Liu Huaqing, the officials and lawyers said.

General Liu was then not only China's top military commander but also a member of the leadership of the Communist Party.

Mr. Chung said the aerospace executive, Liu Chao-ying, told him the source of the money. At one fund-raiser to which Mr. Chung gained admission for her, she was photographed with President Clinton.

A special adviser to the White House counsel, Jim Kennedy, said today, "We had no knowledge about the source of Mr. Chung's money or the background of his guest. In hindsight it was clearly not appropriate for Chung to bring her to see the President."

Mr. Chung's account, coupled with supporting documents like bank records, is the first direct evidence obtained by the Justice Department that elements of the Chinese Government made illegal contributions to the Democratic Party. Under American law, foreign governments are prohibited from contributing to political campaigns.

While the amount described is a tiny part of the $194 million that Democrats raised in 1996, investigators regard the identification of Ms. Liu as a breakthrough in their long search for confirmation of a "China Plan." The hunt was prompted after American intelligence intercepted telephone conversations suggesting that Beijing considered covertly influencing the American elections.

Senator Fred Thompson, Republican of Tennessee and chairman of the Senate committee investigating campaign finance, sought evidence of the plan, but Mr. Chung's account did not come until the committee issued its report this year. Tonight, the Federal Bureau of Investigation briefed Senate staff members about Mr. Chung's cooperation, according to officials.

Mr. Chung, a Southern California businessman, began cooperating with investigators after he pleaded guilty in March to campaign-related bank and tax fraud. He is the first defendant in the Justice Department inquiry to agree to cooperate.

It is not clear whether other Chinese officials or executives were involved in the purported payments by Ms. Liu, or what her motivation or the Chinese military's might have been. At the time, President Clinton was making it easier for American civilian communication satellites to be launched by Chinese rockets, a key issue for the Chinese army and for Ms. Liu's company, which sells missiles for the military and also has a troubled space subsidiary.

The President's decision was valuable to Ms. Liu because it enabled her company to do more business with American companies, but it has also been sought by American aerospace corporations, including Loral Space and Communications and the Hughes Electronics Corporation, a subsidiary of the General Motors Corporation, seeking to do more business in China. It is not known, however, whether anyone in the Democratic Party or the Clinton Administration had reason to suspect the source of the contributions from Mr. Chung.

A lawyer for Mr. Chung, Brian A. Sun, declined to comment on his client's conversations with investigators, citing his client's sealed plea agreement with the Justice Department. "I'm shocked that sources at the Justice Department would attribute anything like that to my client."

Mr. Chung has denied being an agent of the Chinese Government. "Nor did Mr. Chung ever try to lobby the American Government on any type of issue involving technology or anything else," Mr. Sun said.

A National Security Council spokesman, Eric Rubin, said, "It is ludicrous to suggest there was any influence on the determination of U.S. policy on this matter." He said he did not know whether any executives from Ms. Liu's company expressed an interest in the issue.

Ms. Liu did not return a message left with her office today.

Mr. Chung's revelations have opened an avenue of inquiry leading in a diplomatically sensitive direction: next month, Mr. Clinton goes to Beijing, where he hopes to announce increased space cooperation between China and the United States.

A representative of the Chinese Government denied that Beijing was behind the purported contributions. "China has always abided by the laws and regulations in this country," said Yu Shu-ning, a press counselor for the Chinese Embassy. "We have nothing to do whatsoever with political contributions in this country."

Mr. Chung, an American who was born in Taiwan, owned a floundering facsimile company in Torrance, Calif. He became involved with the Democratic Party in early 1995 through Asian-American contacts at the White House and was known for trying to use his connections in Washington with Chinese Government officials and executives.

Despite being labeled a "hustler" by one Presidential aide in 1995, Mr. Chung managed to visit the White House at least 49 times. He and his company contributed $366,000 to the Democratic National Committee—most of it before he met Ms. Liu. The full amount was later returned after questions were raised about Democratic fund-raising.

A Democratic National Committee spokesman, Richard W. Hess, said, "We did not know and had no way of knowing the source of his funds."

Mr. Chung met Ms. Liu in June 1996 in Hong Kong. She was not only a lieutenant colonel in the military, but a senior manager and vice president in charge of international trading for China Aerospace International Holdings Ltd., according to the company's 1996 annual report.

The company is the Hong Kong arm of China Aerospace Corporation, a state-owned jewel in China's military industrial complex with interests in satellite technology, missile sales and rocket launches.

Ms. Liu's father, General Liu, was China's senior military officer, and as vice chairman of the powerful Central Military Commission was in charge of China's drive to modernize the People's Liberation Army by selling weapons to other countries and using the hard currency to acquire Western technology. In that role, he oversaw his country's missile deals.

In addition, General Liu was a member of the Standing Committee of the Politburo of the Communist Party, the very top circle of political leadership in China. He retired from his official positions last fall at the time of the Party's 15th Congress.

China Aerospace sells satellites, launches them and owns a large part of a Hong Kong satellite operator, but the financial viability of many of these ventures depends on American satellites. In 1996 President Clinton made it easier for American satellites to be launched by Chinese rockets. The decision was announced in March but due to delays did not take effect until election day.

As Ms. Liu began her relationship with Mr. Chung, her company and father were trying to fix China's troubled rocket program. That spring, China Aerospace had brought in outside experts, including officials from Hughes and Loral to help analyze why a launch the previous February had failed. The Pentagon later concluded that the outside review harmed American national security by advancing China's rocket and missile capabilities. Both companies denied wrongdoing.

In 1991 and 1993 the United States barred all American companies from doing business with two China Aerospace units that had made illegal missile sales to Pakistan. In each instance, Mr. Liu was assistant to the president of the sanctioned company.

Writing about who in China may have benefited from the 1991 missile deal, former Secretary of State James A. Baker 3d, in his memoirs, said, "In all probability, several senior government and party officials or their families stood to gain from the performance of those contracts."

The missile deals were part of General Liu's strategy of selling Chinese weapons to other countries to raise money to acquire Western technology.

"Liu was a proponent of P.L.A. modernization who was very much interested in obtaining Western technology," said retired Rear Adm. Eric A. McVadon, the American defense attaché in Beijing in the early 1990's. He said Mr. Liu constantly rebuffed American concerns about China's weaponry sales.

Those concerns were front and center in 1996, when General Liu was still in charge of the P.L.A. They included China's sale of missiles to Iran and of nuclear equipment to Pakistan, as well as its own bellicose military maneuvers near Taiwan.

Ms. Liu, Mr. McVadon recalled, was a "gladhander" who "brokered deals." In 1990 she was granted a visa to visit the United States as a representative of a China Aerospace subsidiary.

At the first meeting between Mr. Chung and Ms. Liu in June 1996, Mr. Chung is said to have told investigators, Ms. Liu told him she was interested in again visiting the United States. Soon learning that Mr. Chung could arrange meetings with the President, she expressed an interest in meeting Mr. Clinton.

Mr. Chung helped Ms. Liu obtain a visa on July 11, 1996, according to a law-enforcement official. Five days later, he wrote the Democratic National Committee that he wanted to bring Ms. Liu and a Chinese medical executive to a July 22 fund-raising dinner to be held at the Brentwood, Calif., home of the financier Eli Broad.

Both of his guests' names were placed on the guest list after Mr. Chung wrote a check for $45,000 to the Democratic National Committee on July 19. A week later, Mr. Chung set up a California corporation for Ms. Liu and himself, records show.

Ms. Liu arrived in Los Angeles on July 21, and the next day Mr. Chung accompanied her to two fund-raising events attended by Mr. Clinton, according to a law-enforcement official. The first was an early evening $1,000-per-plate gala at the Beverly Hilton.

Later that night, Mr. Chung and Ms. Liu attended a $25,000-per-couple dinner at Mr. Broad's home that raised more than $1.5 million for the Democrats. The President was photographed with Ms. Liu, a routine courtesy at such events.

Mr. Sun, Mr. Chung's lawyer, said, "I don't think she was any different from any of his business contacts—they thought Johnny was influential and someone they would like to know as they furthered their business dealings in the United States."

The previous year, photos from another Chung visit with Mr. Clinton had caused a problem. The President had expressed concerns about some of Mr. Chung's Chinese business clients—unrelated to Ms. Liu—whom the fund-raiser brought to a March 1995 radio address by Mr. Clinton.

Mr. Clinton's director of Oval Office operations, Nancy Hernreich, in testimony taken by Senate investigators, said Mr. Clinton told her later the visit shouldn't have happened. She took that to mean that Mr. Clinton thought Mr. Chung's clients were "inappropriate foreign people."

[From the New York Times, May 17, 1998]

HOW CHINESE WON RIGHTS TO LAUNCH SATELLITES FOR U.S.

(By Jeff Gerth and David E. Sanger)

On Oct. 9, 1995, Secretary of State Warren Christopher ended a lengthy debate within the Clinton Administration by initialing a classified order that preserved the State Department's sharp limits on China's ability to launch American-made satellites aboard Chinese rockets.

Both American industry and state-owned Chinese companies had been lobbying for years to get the satellites off what is known as the "munitions list," the inventory of America's most sensitive military and intelligence-gathering technology. But Mr. Christopher sided with the Defense Department, the intelligence agencies and some of his own advisers, who noted that commercial satellites held technological secrets that could jeopardize "significant military and intelligence interests."

There was one more reason not to ease the controls, they wrote in a classified memorandum. Doing so would "raise suspicions that we are trying to evade China sanctions" imposed when the country was caught shipping weapons technology abroad—which is what happened in 1991 and 1993 for missile sales to Pakistan.

The Secretary of State's decision to keep satellites on the munitions list, making it harder for them to be exported, did not stand for long. Five months later, President Clinton took the unusual step of reversing it.

Control of export licensing for communications satellites was shifted to the Commerce Department, then run by Ronald H. Brown, who was deeply interested in promoting American businesses overseas and had been one of the Democratic Party's key fund-raising strategists. Several licenses have since been approved.

A reconstruction of Mr. Clinton's decision to change the export control rules, based on interviews and documents, shows that it followed a turf war between the State and Commerce Departments, and a broader debate over how to balance America's security concerns and commercial competition in the hottest of all the emerging markets.

It also illustrates the intersection of the interests of both large American donors and surreptitious foreign donors to the 1996 campaign.

Both American satellite makers and the Chinese were delighted with the decision because the Commerce Department has dual responsibilities: licensing sensitive exports and promoting sales of American goods around the world.

One of the beneficiaries of that decision, it now turns out, was China Aerospace because its rockets could launch American satellites. An executive of the state-owned Chinese company, Liu Chaoying, is said to have provided tens of thousands of dollars from Chinese military intelligence to the Democratic Party in the summer of 1996.

Ms. Liu's involvement was described to Federal investigators recently by Johnny Chung, a Democratic fund-raiser who says he took $300,000 from Ms. Liu—who is also a lieutenant colonel in the Chinese military—and donated almost $100,000 of it to Democratic causes, apparently keeping the rest for his businesses.

President Clinton's decision was announced in March 1996, several months before the donations were made. But the actual change was delayed until the fall.

The White House said it did not know the source of Mr. Chung's donations and denies that the decision was influenced by campaign donations, domestic or foreign.

"This was motivated by competitiveness and streamlining bureaucracy concerns, and nothing else," Samuel R. Berger, Mr. Clinton's national security adviser, said in an interview two weeks ago.

On Friday, Mr. Berger's spokesman, Eric Rubin, said the decision was also part of the Administration's China policy, and specially its effort to encourage China to clamp down on military exports.

"On many occasions, this was discussed with the Chinese Government because we believe that policy on satellite licenses is one of the tools we have to strengthen our nonproliferation policy," Mr. Rubin said.

Mr. Clinton's decision took place after months of tension with Beijing.

In January reports of China's export of nuclear technology to Pakistan and missiles to Iran caused considerable concern in Congress and the Pentagon. In early May, two months after Mr. Clinton reversed the Secretary of State, the Administration said China had agreed to curb its missile and nuclear exports. But that announcement was greeted with considerable skepticism by Republican critics, including Bob Dole, who was well on the way to getting the nomination for President.

During the campaign, the Republicans attacked Mr. Clinton for failing to curb China's sales of nuclear and missile technology to other countries.

The satellite decision in March was one element of the Administration's "carrot-and-stock-approach to working with China," said James Lilley, a former United States Ambassador to Beijing.

But in the way business and diplomacy mix in Washington's dealings with China, the decision also resonated in boardrooms on both sides of the Pacific. It satisfied the commercial interests of the American aerospace industry, which had long sought access to China's low-cost ability to launch satellites into space, aboard rockets called the Long March.

And it bolstered China's own commercial interests. Ms. Liu's parent company, China Aerospace, owns a large piece of a Hong Kong satellite operator. It also owns the China Great Wall Industry Corporation, the rocket company that launches both private satellites and tests and provides equipment for the missiles in China's nuclear arsenal. It was Great Wall that the State Department sanctioned in 1991 and 1993 for selling missiles to Pakistan.

Other powerful Chinese state enterprises also had multibillion-dollar stakes in getting access to American satellites. Among them was the China International Trade and Investment Corporation, whose chairman, Wang Jun, gained unwanted attention in the United States last year when it was revealed that he attended one of Mr. Clinton's campaign coffee meetings in the White House. The day of Mr. Wang's visit, Mr. Clinton, in what Mr. Rubin said was a coincidence, signed waivers allowing the Chinese to launch four American satellites—though they were unrelated to the business interests of China International Trade.

"Any suggestions that these decisions were influenced by Wang Jun's presence in the U.S. is completely unfounded," Mr. Rubin said.

It is not known what motivated Ms. Liu or the Chinese military to make the donations. Ms. Liu's father, Gen. Liu Huaqing, was not only China's highest military officer but a member of the leadership of the Communist Party.

The White House and the Democratic National Committee deny any knowledge of the source of Mr. Chung's $266,000 in donations, most predating his connection with Ms. Liu, and all of which was returned.

But there is no doubt that American companies—partners and suppliers of China International Trade and China Aerospace—put enormous pressure on the White House. They were also important campaign contributors. For example, the chief executive of Loral Space and Communications gave $275,000 between November 1995 and June 1996 to the Democrats

THE PRECURSOR: A LOBBYING EFFORT TO PERSUADE BUSH

China's drive to obtain a steady stream of satellite technology from the United States preceded the Clinton Administration's arrival in Washington.

In 1990, just a year after the killings at Tiananmen Square, officials from China Aerospace and the Chinese Government approached Mr. Lilley, the American Ambassador, pressing for President Bush to waive restrictions enacted in the aftermath of Tiananmen that barred China from launching American satellites.

"They hit me very hard," Mr. Lilley recalled recently. "It was a prestige national program. It was putting China on the map as the big space country of the 21st century."

Mr. Bush, who became America's first permanent representative in Communist China in 1974, granted a waiver that allowed a launching on one of China's Long March rockets. In 1992, a number of Senators—including Al Gore, then still a Senator from Tennessee—wrote to the Bush Administration warning that China was using the launchings to "gain foreign aerospace technology that would be otherwise unavailable to it."

In the last days of the 1992 Presidential campaign, Mr. Gore made the waivers an issue, contending that President Bush "has permitted five additional American-built satellites to be launched by the Chinese."

"President Bush really is an incurable patsy for those dictators he sets out to coddle," Mr. Gore said in a speech at the Goddard Space Flight Center in Greenbelt, Md.

THE ARGUMENT: BUSINESS LEADERS PRESSURE CLINTON

Almost as soon as Mr. Clinton took office, business leaders began their campaign to drastically change his views about China.

Both Chinese and American companies were working to get satellites off the State Department's munitions list. The rules for exporting goods that are on the list are particularly tough. Congress must be notified 30 days in advance. Moreover, the State Department considers only nonproliferation issues and defers to the Pentagon's judgments.

In contrast, the Commerce Department's export-control administration solicits a host of views and must weigh the effects of its decisions on America's competitive position.

Mr. Christopher's aides also noted in their 1995 classified memorandum that "U.S. firms remain concerned there could be additional sanctions imposed on China precluding future munitions licenses," exactly the kind of sanctions that had been only recently lifted for China Aerospace's subsidiaries.

And there was a lot at stake: an estimated 14 commercial communications satellite launchings a year worldwide, costing several hundred million dollars apiece.

"The business community regarded the inclusion of civilian satellites on the munitions list as an insult," said William A. Reinsch, the Under Secretary of Commerce for export control, who fought Mr. Christopher's decision. "We're the only country that treats them that way."

The Chinese also understood that they had a huge stake in the outcome of the decision. Zuoyi Huang, president of the California subsidiary of China Great Wall, a part of the China Aerospace empire, said in an interview that his company was eager for any changes that would insure easier access to American technology.

"The license takes time," he said. "You have to get a waiver from the President. The customers can't wait. It's just pure commercial use. It's not a military threat to the United States."

THE REVIEW: A DECISION AGAINST AND A QUICK APPEAL

The arguments came to a head in 1995. C. Michael Armstrong, then the chief executive of Hughes Electronics and newly chosen as the head of President Clinton's export council, asked to meet Mr. Christopher. He urged that satellites, which his company produces, no longer be treated as military goods.

The Secretary of State promised that he would conduct a detailed review in consultation with the Department of Defense, the C.I.A. and the National Security Agency and the Department of Commerce.

But the majority of the interagency group quickly found itself at odds with the aerospace industry. A major issue was how to protect encryption equipment, which is built into a satellite and interprets instructions from ground controllers who manipulate the satellite once it is in orbit. Similar devices are used to communicate with American spy satellites, and the Pentagon and intelligence agencies worried that anyone who could crack the code could take control of the satellites themselves.

On Aug. 17, 1995, a memorandum prepared for the interagency group noted that the chief executive of a satellite company told Mr. Christopher that "once it is embedded in the satellite, the encryption device has no military significance." Thus, the industry argued, there was little risk that the Chinese would get their hands on the encryption devices—especially because American military officials are supposed to watch the satellites with care when they are in Chinese hands.

But, the memorandum went on, "the national security position" is that "the nature of the device itself," not its location, "should be used to determine whether it must be controlled as a military item."

The encryption issue was one of the main reasons the interagency group—over the objections of the Commerce Department—recommended that satellites remain on the munitions list. Mr. Christopher concurred. Soon after Mr. Christopher put his initials on the decision memorandum, Commerce Secretary Ronald H. Brown appealed the decision to the President.

THE TURNAROUND: THE COMMERCE DEPT. WINS A TURF BATTLE

The debate surrounding the appeal did not heat up for four months. The nature of the arguments that went to the White House is still unclear: many of the documents remain classified. But those that have been reviewed by The New York Times show that the White House and the Commerce Department began communicating again about the issue on Feb. 8, 1996, two days after President Clinton broke a backlog of applications for launchings by China, by approving four of them that day.

Mr. Clinton signed those waivers the same day that Wang Jun, the man who was often referred to during the campaign finance investigations as a "Chinese arms dealer," visited Washington. His company, the China International Trade and Investment Corporation, has a multibillion-dollar stake in one of Hong Kong's largest satellite companies.

That same day, Mr. Wang met with Mr. Brown, at his expansive office in the Commerce Department. And that evening, Mr. Wang attended a coffee at the White House, an event Mr. Clinton later called "clearly inappropriate." Others at the coffee said Mr. Wang never spoke during the session.

By mid-February, for reasons that are still murky, there seemed to be some urgency at the White House to decide whether to reverse Mr. Christopher's decision, shifting satellite export licensing to the Commerce Department.

A Feb. 15 State Department memorandum talks about speeding up the process because "the Administration wanted to wrap this up."

In the end, the State Department relented. Participants in the final debate said that the President concluded that the technology could be protected through the Commerce Department, just as the department protects supercomputers and other sensitive technologies.

The President's decision was announced on March 14. Commerce officials, who had just won one of Washington's nastiest turf wars, were jubilant.

"Good news," officials were told by E-mail. The electronic message went on to recommend a "low key" spin on the news that would "not draw attention to the decision."

Internal commerce Department documents show that officials were anticipating questions from reporters and Congress about whether the decision represented an effort to ease technology transfers to China and remove items from sanctions—some of the same concerns that figured in Mr. Christopher's decision.

In the days preceding the announcement, China had raised tensions with its Asian neighbors and the United States to new heights, firing M-9 ballistic missiles, which carried dummy warheads, into target zones 30 miles off the shore of Taiwan.

The March 14 announcement said that regulations putting into effect the President's decision would be issued within 30 days. But the bureaucratic infighting continued.

Finally, the State Department issued the regulations shifting most satellite licensing to the Commerce Department.

They were published on Nov. 5, 1996, the day President Clinton was re-elected.

Correction: A chart last Sunday about China's effort to win the right to launch American satellites referred incorrectly to the message conveyed in September and October 1993 to President Clinton by Michael Armstrong, the chief executive officer of the Hughes Electronics Corporation, an American maker of communications satellites. Mr. Armstrong, in letters to Mr. Clinton, complained that State Department sanctions against Chinese missile companies hurt his business; he did not mention the China Aerospace Corporation specifically.

Between 1993 and 1996, the Clinton Administration dropped its sanctions on China Aerospace, a state-owned Chinese company, for selling missiles to Pakistan and gave the company permission to launch private United States communications satellites, despite some lingering concerns in the Administration about security.

August 1993—State Department imposes economic sanctions against subsidiaries of Beijing-based China Aerospace for selling missiles to Pakistan. The sanctions bar American companies from doing business with the concerns.

Sept.-Oct. 1993—Michael Armstrong, the chief executive of Hughes Electronics Corp., tells the President the sanctions hurt his company because China Aerospace is a low-cost launcher of satellites.

Nov. 1993—The Administration signals it might ease satellite licensing procedures and Mr. Armstrong relays to the White House an encouraging reaction from his contacts in China.

April 1995—Secretary of State Warren Christopher begins an interagency review of restrictions on the export of communications satellites at Mr. Armstrong's urging. The companies want to see responsibility for the issue shifted to the Commerce Department.

Oct. 9, 1995—Following the recommendation of the Pentagon, intelligence agencies and his advisers, Mr. Christopher keeps satellites under the purview of the State Department. The Commerce Department appeals this decision to President Clinton.

Feb. 6, 1996—With the relations between the United States and China tense over Beijing's military operations and sales, President Clinton approves the launch of four American satellites by Chinese rockets.

Mid-February 1996—The White House revives the effort to ease restrictions on satellite exports, reviewing anew Mr. Christopher's decision.

March 8–15, 1996—China conducts missile tests near Taiwan, signalling its displeasure over talk of Taiwanese independence during Taiwan's elections.

March 14, 1996—In a low-key announcement, the Administration says that Mr. Clinton has shifted responsibility for communications satellites to the Commerce Department. Regulations, it says, are to be issued in 30 days.

May 3, 1996—Three top satellite executives write to Mr. Clinton complaining about the delay in issuing the regulations.

Nov. 5, 1996—The State Department publishes the new regulations in the Federal Register. President Clinton is re-elected.

[From the New York Times, May 19, 1998]

SATELLITE MAKER GAVE REPORT TO CHINA BEFORE TELLING U.S.

(By Jeff Gerth)

WASHINGTON.—A leading American satellite maker acknowledged for the first time Monday that a committee headed by one of its top executives provided a report in 1996 to the Chinese on a failed Chinese rocket, without first consulting federal officials, and contrary to the company's own internal policies.

But the company, Space Systems/Loral, a subsidiary of Loral Space and Communications, based in Manhattan, said it "does not believe any of its employees dealing with China acted illegally or damaged U.S. national security." The company issued a two-page statement, which it called a "fact sheet."

In the statement, Loral said it was cooperating with the Justice Department, which is investigating whether sensitive technological information was passed to the Chinese during industry reviews of an accidental explosion of a Chinese rocket seconds after liftoff in February 1996.

The criminal inquiry is focusing on whether officials from Loral and other companies who participated in the review violated American export control laws.

Loral maintained Monday that no secret or sensitive information was conveyed to the Chinese. But a classified Pentagon study concluded the review had helped Chinese missile capabilities and harmed American security, administration officials said. The Pentagon study prompted the Justice Department's inquiry.

In recent days, the Clinton administration's policies on Chinese-launched American satellites have come under intense scrutiny because of information that a Chinese military officer had funneled nearly $100,000 into Democratic campaign committees during President Clinton's re-election campaign.

The New York Times has reported that lawyers and officials have said that Johnny Chung, a fund-raiser, provided information to federal investigators about the Chinese officer, Lt. Col. Liu Chaoying, who was a senior Hong Kong executive for China Aerospace, the Chinese conglomerate whose rocket exploded with a Loral satellite in 1996.

The information provided by Chung, which followed his pleading guilty to campaign-related bank and tax fraud charges, has re-ignited Republicans' zeal to investigate whether the Chinese government tried to influence Clinton administration policy.

Speaker Newt Gingrich is considering creating a special select committee to investigate the transfer of advanced space technology to China, and House Republicans are threatening to attach amendments to the Pentagon's budget bill later this week that would bar the sale of commercial satellites and technology to China.

Loral's statement Monday said that "no political favors or benefits of any kind were requested or extended, directly or indirectly, by any means whatever."

It also said that the company's chairman, Bernard Schwartz, who has been one of the largest individual Democratic Party donors in the last few years, "was not personally involved in any aspect of this matter."

In outlining its involvement with the Chinese rocket, Loral's statement said insurance companies asked Loral and other satellite concerns, including the Hughes Electronics Corp., to review the results of an accident investigation done by the Chinese.

The outside review was headed by a senior executive at Space Systems/Loral. The review committee's report shows that the senior Loral executive had been requested by the president of China Aerospace, which controls China's satellite and space enterprises.

In the end, the review committee affirmed what the Chinese found: "that a failed solder joint was the most likely cause of the failure," Loral said Monday.

Loral also said that while the 1996 review was under way, unidentified Loral officials "discussed the review committee's work with a number of U.S. officials interested in China's space program." But the company acknowledged that it had not followed its own procedures.

"Contrary to SS/L's own internal policies, the committee provided a report to the Chinese before consulting with State Department export licensing authorities," Loral said without elaborating.

The company has privately told investigators in a report that Loral's security advisers had told the company to seek State Department approval before talking to the Chinese but those instructions were not followed, industry executives and federal officials said.

Loral has private conceded another mistake: ignoring license conditions that required Pentagon monitors during the transmission of any information, the executives and officials said.

Last February, President Clinton approved the Chinese launch of another Loral satellite. That license, according to American officials, explicitly requires separate government approval to participate in any accident review and contains stringent safeguards against transfer of any technology. Administration officials have said that being under investigation was insufficient grounds to deny Loral a license.

But the Justice Department opposed the recent presidential approval for Loral's license, officials said. Department lawyers feared that the approval would undercut the viability of a criminal case—if one were to go forward—by creating the appearance for a jury of government support for Loral's previous conduct.

Law-enforcement officials also had initial concerns about some of the licensing language, but those concerns appear to have been allayed as the inquiry is going forward, officials said.

The expertise needed to put satellites into orbit is similar to that used to deliver nuclear warheads. The overlapping commercial and military uses lie at the heart of both the criminal inquiry and congressional concern about Clinton's policies on satellite launches in China.

On Capitol Hill Monday, senior Republicans continued to call for a broad investigation into whether the transfer of space technology to China threatened United States security.

Gingrich Monday called on Clinton to delay his trip to China in June.

The Speaker is also proposing the creation of a special committee, with five Republicans and three Democrats, and headed by Rep. Christopher Cox, R-Calif., who served as deputy counsel in the Reagan administration, said Christina Martin, Gingrich's spokeswoman.

"The purpose would be to assess whether U.S. policy was affected by Communist Chinese efforts," Ms. Martin said.

But Rep. Richard A. Gephardt of Missouri, the House democratic leader, argued that the House had several standing committees that could handle the task.

[From the New York Times, June 1, 1998]

THE WHITE HOUSE DISMISSED WARNINGS ON CHINA SATELLITE DEAL

(By Jeff Gerth and John M. Broder)

WASHINGTON.—The caution signs made it evident that the application by Loral Space & Communications to export a satellite to China earlier this year was anything but routine.

Justice Department prosecutors warned that allowing the deal could jeopardize possible prosecution of the company for an earlier unauthorized technology transfer to Beijing. The Pentagon reported that Loral had provided "potentially very significant help" to China's military rocket program. And senior White House aides cautioned that the deal was certain to spark opposition from critics of the Administration's nonproliferation and human rights policies toward China.

But the White House pressed ahead, concerned about the financial costs to Loral of delaying approval of the deal and certain that it could defend the decision against subsequent criticism.

Rarely is the public given a detailed look inside the White House decision-making process on a matter of national security as sensitive as the export of a satellite to China. These records ordinarily remain sealed for years, buried under the Government's strict regime of secrecy.

But documents produced by the White House 10 days ago in response to a demand from Congress provide an unusually rich account of the evolution of a Presidential decision in which numerous warning signals were raised and then dismissed.

According to the records, the February decision by President Clinton to approve the Loral satellite launching was treated as an urgent matter not because of its importance to the national security, but because the company was facing heavy fines for delay.

Concerns about European competition for the satellite business and fears that denying the deal would damage the United States-China relationship overrode words of caution from other Government agencies.

The presumption throughout was that the deal would be approved, as had 19 previous applications under Presidents Clinton and Bush. The documents reflect the White House staffs search for a defensible rationale for the decision.

Federal and Congressional investigators are now examining what led the President to risk political embarrassment by creating the perception that he might be letting Loral—headed by the Democratic Party's largest campaign contributor—off the hook in a serious criminal inquiry into whether Loral executives helped China's missile program.

DECISION TRACED TO A SATELLITE CRASH

Samuel R. Berger, the national security adviser, had a preemptive answer in the decision memorandum he forwarded to the President on Feb. 12. The memo briefly noted the Justice Department's concerns and referred to the possibility that Loral might have significantly aided China's military rocket program.

But he urged the President to approve the deal regardless.

"In any case," Berger wrote, "we believe that the advantages of this project outweigh this risk, and that we can effectively rebut criticism of the waiver."

Clinton approved it with his distinctive backward check mark six days later.

Since 1989, the export of American satellites for launching on Chinese rockets has been suspended as a result of sanctions imposed after the killings in Tiananmen

Square. A deal can go forward only if the President concludes that the export is in the national interest and issues a waiver.

President Bush approved all nine waiver requests that reached this desk; President Clinton routinely followed the practice in his first four years in office, signing 10 waivers with little internal debate or external controversy.

But the waiver Clinton signed on Feb. 18 was not routine. The roots of his unusual decision trace back two years when a Chinese rocket carrying a Loral satellite crashed into a village seconds after liftoff, killing and injuring dozens of civilians.

A few months later, Loral led an outside review team to help the Chinese figure out what had happened. The company says its officials did nothing wrong. But Loral also acknowledged serious mistakes in a June 1996 disclosure to the State Department, including an admission that it allowed the Chinese to see its lengthy review of the rocket mishap without prior Federal approval. Such technological assistance to the Chinese requires prior Government approval, which Loral had not received.

At virtually the same time that Loral made its disclosure to the Government, the company was seeking another Presidential waiver for a satellite. Its chairman, Bernard L. Schwartz, donated $100,000 to the Democratic Party four weeks before the waiver application was approved in early July 1996 by Clinton.

It is not known whether Loral's help for the Chinese was mentioned in the memorandum that went to the President because the White House has not released documentation on that decision.

It is known that the State Department had already alleged in a letter to satellite industry executives that there had been a violation of American export control laws in the accident review.

But as of July 1996, no criminal inquiry was under way. The Justice Department began its investigation only after the Pentagon completed an assessment of the accident review in May 1997.

That is the same month Loral applied for its most recent waiver, for the Chinasat 8 satellite.

COMPANY'S CONCERNS REACH WHITE HOUSE

The first notice to the White House of unusual problems with the Chinasat 8 waiver application came in an early January memorandum from the State Department detailing the factors for the President to consider.

Although couched in careful bureaucratic language, the State Department document made it clear that this was no routine export license application.

The State Department pointed out that China's transfer of missile technology to Iran might prohibit the export of the Loral satellite or any other satellites or related items.

"Moreover" the State Department memo stated, "information about unauthorized defense services provided by Space Systems/Loral and another U.S. firm to China's Long March 3B Launch Vehicle" could lead to imposition of harsh sanctions against the company.

But the State Department and other agencies nonetheless recommended granting the waiver, because the deal would enhance the United States' leadership in commercial telecommunications, provide an incentive for China to adhere to international nonproliferation rules and improve trade ties with Beijing.

After virtually no debate at the White House, the State Department memorandum was rewritten as a decision paper for the President.

The State Department's concern about technology transfers to Iran appeared nowhere in the decision document, but a new element is inserted in the first and in most subsequent drafts. The President must act quickly, the draft states; any delay will cost Loral money.

"Due to severe contractual penalties which Loral will incur if it cannot begin technical discussions with the Chinese by next week, we recommend that you take action on this issue by January 20," read the first draft of the Presidential memorandum, dated Jan. 13.

A day earlier, Loral officials had made known to the White House their frustration at the slow Government response to their waiver application, which was submitted in May 1997.

A Loral letter found in White House files stated that unless the approval is granted within a week, the launching scheduled for November, would be delayed by several months, costing the company at least $6 million. Any such delay would give the Chinese grounds for canceling the project, which would cost Loral $20 million, the company warned.

"Our competitors in Europe," Loral officials complained, "do not suffer delays due to export licensing or legal complications."

The company's concerns clearly were heard at the White House.

A senior aide at the National Security Council, Maureen E. Tucker, repeatedly pressed for a rapid decision in forwarding early drafts of the Presidential decision paper to associates at the council.

She described the memorandum and accompanying documents as "a very quick turnaround package for which I am seeking your clearance by tomorrow," she wrote on Jan. 13.

By Jan. 20, one frustrated aide scrawled on a draft of the memo, "Needs to go to POTUS today!!" POTUS is the White House jargon for President of the United States.

But the waiver request was held up by questions from Berger, who asked his legal aides to research the status of the Justice Department investigation and determine whether it would bar approval of the waiver.

Tellingly, Berger asked Gary Samore, the National Security Council's top weapons aides to research the status of the Justice Department investigation and determine whether it would bar approval of the waiver.

Tellingly, Berger asked Gary Samore, the National Security Council's top weapons proliferation export, in a handwritten note if the approval can be granted in phases "to get over immediate crunch."

Berger did not ask whether Loral's cooperation with the Chinese after the 1996 accident would require denial of the export license. Instead, he wonders in the note to Samore where there is "anything we can hang our hat on to characterize Loral's 'offense.'"

Berger's aides sought advice from officials at the State Department, who informed them that Loral's offenses appear to be "criminal" and "knowing." Ms. Tucker was told that the Pentagon investigated Loral's assistance to the Chinese after the 1996 missile explosion and concluded that the company provided "potentially very significant help" to Beijing's ballistic missile program.

BEHIND DECISION TO GRANT A WAIVER

The White House counsel Charles F. C. Ruff told a Security Council lawyer that the Justice Department's investigation mattered less than maintaining close diplomatic and business relations with China.

"Issue is not [underlined twice] impact on DOJ litig(ation)," the Security Council deputy counsel Newell Highsmith wrote in notes of his conversation with Ruff, "but whether bilateral U.S.-China concerns and economic factors outweigh risk of political embarrassment."

A principal argument behind Clinton's decision was that it would be unfair to penalize Loral by denying it a license if it was under investigation but had not been charged with any crimes.

The export law allows the President to deny a license if the license seeker has been indicted or if there is "reasonable cause to believe" the license seeker "has violated" United States export control laws. The White House documents show that some White House and State Department officials believed the latter, but Administration officials say they relied on a 1993 State Department memo which said that companies will be denied licenses only after indictment.

"In an ideal world we would wait until this matter is resolved," Malcolm R. Lee, a National Security Council aide, told other White House officials in an electronic message a month before the President's decision, referring to the pending Justice Department inquiry. But, Lee added, "that is impracticable."

A senior Administration official, speaking not for attribution, said that waiting for the results of the Justice Department investigation could delay the satellite launching for months, if not years.

And, the official added, "There were some imperatives to get a timely decision because of the penalties facing the company."

But the company acknowledges that no such penalties have been imposed and the launching is still scheduled for November, as it has been for the last year.

"We believe we will not incur penalties because we can work around the problem," a Loral official said late last week.

PENTAGON TROUBLED BY LORAL'S ROLE

The President did not receive a detailed assessment of the potential damage to American security caused by Loral's help to China in determining the cause of the 1996 launching failure. The Pentagon was troubled by Loral's technological assistance because the rocket science involved in putting a satellite into orbit is similar to that needed to deliver a nuclear warhead.

The Pentagon relying on Air Force missile and intelligence experts, did not find grave damage but did conclude that the United States national security had been harmed, according to Administration officials.

A White House official said that the National Security Council never received the Pentagon report, which was prepared to assist the State Department. "We did the best we could in the memo for the President in describing what we understood to be the allegations," the official said. "We didn't beat around the bush."

White House aides overcame the major impediment to the waiver—the concern of Justice Department prosecutors that it would jeopardize any possible prosecution—by relying on the fact that "the Department had every opportunity to weigh in against the waiver at the highest levels and elected not to do so," as Ruff, the White House counsel, wrote on Feb. 13.

But Justice Department officials say that Ruff, in his discussion with Robert Litt, the top aide to the Deputy Attorney General, asked only about the impact of the waiver on possible prosecution—not whether the department opposed the waiver.

It is not known how the Justice Department would have answered that question.

[From MSNBC, May 27, 1998]

TIME LINE OF CLINTON CHINA DECISIONS

(By Tom Curry and Robert Windrem)

As the Clinton administration debated whether to allow U.S. satellites to be lofted into orbit aboard Chinese missiles, Bernard Schwartz, chairman of Loral Space & Communications, and Democratic fund-raiser Johnny Chung, allegedly using money from the Chinese army, gave more than $500,000 in soft money, ostensibly used for "party-building efforts," to the Democrats.

The Justice Department and Congress are investigating how a technical report on the explosion of a Chinese missile in 1996—a report that could help China assess the reliability of its missile arsenal—found its way into the hands of the Chinese.

That report was prepared by employees of Loral, Hughes Electronics and other firms.

In a statement issued May 18, Loral said that "Bernard Schwartz, chairman of Loral Space & Communications Ltd. . . . was not personally involved in any aspect of this matter. No political favors or benefits of any kind were requested or extended, directly or indirectly, by any means whatever."

The firm also declared that: "Allegations of a connection between the launch failure and a subsequent presidential authorization for use of Chinese launch services for another [Loral] satellite to China are without foundation."

Nonetheless, Justice Department and congressional investigators are sure to scrutinize the chronology of gifts and decisions.

The time line does not prove any cause-and-effect relationship between donations and decisions. It does give investigators a basis for their criminal inquiry.

April 24, 1995: Loral chairman Schwartz gives $25,000 to the Democratic National Committee.

June 30, 1995: Schwartz gives $20,000 to Democratic Senatorial Campaign Committee, which provide support for Democratic Senate candidates.

Aug. 30, 1995: Schwartz gives $75,000 to DNC.

Sept. 30, 1995: Schwartz gives $20,500 to DSCC.

Oct. 9, 1995: Secretary of State Warren Christopher decides satellites should remain a military munitions item.

Nov. 29, 1995: Schwartz gives $100,000 to DNC.

Nov. 29, 1995: A Chinese government agency writes Loral, asking for help in getting an upgrade for its dual-use imaging technology, exports of which are prohibited under U.S. sanctions.

Jan. 26, 1996: Loral is sold to Lockheed for $9 billion.

CLINTON APPROVES LAUNCH

Feb. 6, 1996: Clinton approves the launch of four communications satellites on Chinese rockets.

Feb. 6, 1996: Wang Jun of CITIC, owners of percentages in Chinese satellite companies, visits the White House for coffee and dines with Commerce Secretary Ron Brown.

Feb. 8, 1996: The White House and Commerce Department begin to talk about the satellite export issue again.

Feb. 14, 1996: A Chinese rocket carrying Loral Intelsat satellite explodes, destroying a Chinese village.

Feb. 15, 1996: Schwartz gives $15,000 to DSCC.

Feb. 15, 1996: The State Department gets an urgent request from the White House to speed up the process of switching the satellite licensing to the Commerce Department.

Feb. 29, 1996: Schwartz gives $50,000 to Democratic Congressional Campaign Committee, which bankrolls Democratic House candidates.

March 8, 1996: China launches missiles.

March 14, 1996: Clinton decides to move the satellite licensing function to the Commerce Department.

March 15, 1996: Loral President J.A. Lindfelt writes Commerce to say the export of a dual-use technology, known as synthetic aperture radar, is being held up by the Defense, State and Commerce departments.

April 1996: Schwartz announces the formation of Loral Space and Communications.

April 24, 1996: Schwartz gives $50,000 to DSCC.

June 10, 1996: Schwartz gives $100,000 to DNC.

July 22, 1996: Liu Chao-Ying of China Aerospace meets Clinton with Johnny Chung.

July 31, 1996: Schwartz gives $5,000 to DSCC.

INFLUX OF CHINESE MONEY

August 1996: Chung accounts show an influx of $300,000 from Liu Chao-Ying.

Aug. 18, 1996: Chung gives $20,000 to DNC to attend Clinton's birthday party.

Aug. 28, 1996: Chung gives $15,000 to DNC at Democratic National Convention in Chicago.

Sept. 16, 1996: Schwartz gives $30,000 to DSCC.

Sept. 20, 1996: Schwartz gives $20,000 to DSCC.

Oct. 16, 1996: Schwartz gives $10,000 to DSCC.

Oct. 18, 1996: Schwartz gives $70,000 to DNC.

Oct. 24, 1996: Schwartz gives $5,000 to DSCC.

Nov. 5, 1996: New guidelines on Commerce licensing of satellites are published.

Nov. 5, 1996: Clinton is elected to his second term as president.

Oct., 1997: A federal investigation of Loral begins.

Feb. 12, 1998: As Clinton ponders whether to sign another waiver allowing launch of a Loral satellite aboard a Chinese missile, National Security Adviser Sandy Berger sends him a memo saying the Justice Department "has cautioned that a national interest waiver in this case could have a significant adverse impact on any prosecution [of Loral] that might take place based on a pending investigation of export violation."

But Berger adds that "the advantages of this project outweigh the risk," and "it is inappropriate to penalize [Loral] before they have even been charged with any crime."

Feb. 18, 1998: Clinton signs a waiver allowing Loral satellite to be lifted into orbit by the Chinese.

[From MSNBC]

THE MAN BEHIND THE CHINA TROUBLE

(By Robert Windrem)

For a working class, Depression-era kid from Brooklyn, N.Y., Bernard "Bernie" Schwartz has done quite well for himself.

As CEO of Loral Space and Satellites, the 71-year-old Schwartz is a leader in the world of satellite communications, with significant holdings in satellite manufacturing (Loral), broadcasting (Britain's Skynet and Mexico's Satmex), Internet linkage (Orion Network Systems) and global personal communications (Globalstar). His personal wealth is measured in the hundreds of millions of dollars, much of it coming from his sale in April 1996 of Loral's defense business.

As important, Schwartz is a friend of the president. In December 1996 alone, he celebrated his birthday with an intimate dinner with President Bill Clinton and Hillary Rodham Clinton at the White House, was their guest at the Kennedy Center honors and shared a podium with Clinton at the Democratic Leadership Conference, the spawning ground for the Clinton revolution.

In March 1996, according to White House records, he got a perk that few others have recieved—dinner and a movie in the White House theater, along with a cast of celebrities to share popcorn: singer Billy Joel, baseball great Hank Aaron, actress Jennifer Jason Leigh, directors Ethan and Joel Coen, comedian Al Franken and political strategist Dick Morris.

All together, Schwartz was invited to 21 White House events during Clinton's first term.

And why not? Bernie Schwartz is the single biggest contributor to the Democratic Party in the Clinton era. A review of campaign finance databases by NBC News and the Center for Responsive Politics shows that between 1992 and 1998. Schwartz gave the Democratic Party $1,131,500 while he, his family, his companies, their political action committees and executives gave another $881,565 to Democratic candidates. Schwartz gave another $217,000 to the Democratic Leadership Conference. Schwartz and Loral gave $367,000 to the Republicans during that same period.

The man Mother Jones magazine called the orbiter of power, Schwartz has increased his contributions to the Democrats year by year. In the 1991–'92 campaign cycle, he gave $12,500; in 1993–'94, $112,000; in 1995–'96, $586,000, and in 1997–'98, $421,000. Schwartz was the single biggest donor in the 1996 and 1998 campaigns.

Schwartz has been dependent on a number of government programs and regulatory processes, including the export of communications satellites. In letters to the late Commerce Secretary Ron Brown in March and May of 1993, Schwartz laid out some of those businesses.

"Loral Corp. is the provider of [weather] satellites for the Department of Commerce's GOES program, "Schwartz wrote, in seeking a meeting with Brown, "In addition, there are other matters that would be of interest to Commerce in which Loral has a significant position, including the auction of radio frequencies and the exporting of highly advanced technical equipment, e.g., satellites and military hardware. Further, Loral is the principle [sic] supplier of satellites for Intelsat."

When the two men's schedules didn't mesh in March or April, Schwartz wrote Brown again, noting, "We are affect [sic] by a number of general areas overseen by the Commerce Department. The Department's guidance in these areas will be meaningful." Included in the list was Commerce's role in communications-satellite licensing.

Brown ultimately took Schwartz with him to China on a trade mission in August and September 1994. Schwartz was invited one month after he gave his first big contribution, $100,000, to the Democratic National Committee.

On that trip, Schwartz asked the Department to help set him up with officials of the Chinese military and space organizations.

A Loral spokesman initially said that Schwartz had never "talked business" with administration officials. But when confronted with the letters and other indications of meetings between Schwartz and

Brown, the spokesman said any meetings were "routine and proper" and that Schwartz had always acted "scrupulously."

To the question of whether the contributions were meant to help Loral with the various issues before the government, including satellite launches in China, the spokesman dismissed the idea as "ridiculous" and said there was "never" a time when Schwartz discussed any of this with the president.

"Bernie Schwartz is a Roosevelt Democrat who believes that Roosevelt saved his family," the spokesman added, noting that he has been a longtime supporter of Clinton.

[From the Weekly Standard, June 1, 1998]

SELLING CHINA THE ROPE . . .

(By Henry Sokolski)

Presidential spokesman Mike McCurry last week justified the Clinton administration policy that allowed the transfer of satellite technology to the Chinese military with the hoary "they started it" defense. "This administration," said McCurry, "has pursued the exact same policy pursued by the Bush administration."

This is not really a defense of the policy, of course, but is it true? Republican officials, as we shall see, were not without sin. But you might say that they worried enough to go to confession: They tried to control against the leaking of sensitive technology in their dealings with China by at least monitoring and limiting the transactions. Not so the Clinton administration, which from 1993 on not only showed contempt for enforcing existing satellite controls but loosened them so as to make it all but impossible to know whether they were being violated. You might say they not only skipped confession, but burned the church down.

Today's controversy surrounds what the Chinese have managed to learn through launching satellites made by two American companies, Loral Space and Communications and Hughes Electronics. Details of a federal grand-jury investigation have been leaked to New York Times reporter Jeff Gerth and others that make this much clearer. In February 1996 a Chinese Long March rocket carrying a Loral-made satellite blew up shortly after liftoff. In an effort to clarify to insurers who was to blame for this accident, analysis done by Loral and Hughes was presented to the Chinese, which the U.S. Defense Department later determined could help China perfect more reliable, accurate, long range ballistic missiles. (According to a CIA report leaked this spring, 13 Long March missiles with nuclear warheads are aimed at American cities.) The federal grand jury is now trying to determine what, if any, U.S. export-control laws may have been broken.

This story has exploded because of the tandem revelations that the Chinese military may have made illegal campaign donations to aid Clinton's reelection and that Loral's CEO is a top donor to the Democratic party. Despite Justice Department warnings that he might undermine the grand-jury investigation of Loral, the president went ahead earlier this year and allowed the company to transfer and additional satellite to China. Eager to connect the dots of the scandal, the House last week voted 364 to 54 to suspend all transfer of U.S. satellites to China.

Focusing on the money is exciting, but probably misses the point when it comes to assessing the potential damage done to national security. In fact, not just Loral and Hughes, but Lockheed Martin, Motorola, and Martin Marietta have all worked closely with the Chinese launch industry—work which began not in 1996, but nearly a decade ago in 1989. And all of this history (not just the 1996 Loral-Hughes case) bears investigating. There is no way to judge the administration's performance in the Loral-Hughes matter without knowing what was attempted by prior administrations.

It was Ronald Reagan, after all, who first allowed the launch of U.S.-made satellites on Chinese rockets, after the Challenger space shuttle crash in 1986 deprived the satellite industry of launch alternatives. And it was George Bush who waived Tiananmen Square sanctions to allow the Chinese launch of up to five U.S.-made satellites, three of which—all made by Hughes—were launched before he left office.

If this larger record is examined, three points emerge. First, all of our satellite transfers have helped China perfect its military rocketry. China's launching of U.S.-made satellites—worth up to a half-billion dollars in revenue to date—has helped finance China's own missile-modernization efforts and missile exports to nations like Pakistan and Iran. It also has given the Chinese access to U.S. rocket know-how. U.S. contractors have a natural inclination to tutor the Chinese on what they should do to make their crude rockets precise and reliable (they don't want to lose their satellites, which are worth up to 10 times the value of the launcher). Anticipating this, State and Defense officials drew up strict rules in the late 1980s covering precisely what information companies could share with the Chinese. These rules required monitoring of all contractor-Chinese exchanges (including discussions) by a U.S. government rocket-engineer enforcement agent.

Did this prevent militarily useful information from being conveyed to the Chinese? No. But because all exchanges were monitored, there was a clear record of what was conveyed and a concerted effort to keep such transfers to a minimum. Were there infractions? Yes, but when they were reported, senior officials in the Defense and State departments reprimanded the contractors and got them to stop. Yet despite these enforcement measures, a number of key technologies were transferred before 1993. Clean-rooms were constructed in China to assure Hughes' sensitive communications satellites wouldn't be ruined by dust, humidity, or major temperature changes before they were launched. And clean-room technology, as it happens, is also crucial in preparing any advanced system for launch, including reconnaissance satellites and complex warhead packages.

In an attempt to clear up liability for two launch failures in 1992, U.S. contractors also discussed how to improve Chinese payload farings (the nose cone at the rocket's top that shields the satellite) and attitude and engine controls, which fire the rocket's stages and keep them and the payload (either military or civilian) at the precise angles required for proper functioning. Finally, each launch of a Chinese Long March vehicle helped improve the reliability of China's intercontinental ballistic missile fleet, since the rockets are the same.

Republican officials, then, had a spotty record, with the advantage that they worried about it and tried to enforce the law. By the end of the Bush administration, proposals were made to loosen controls over satellite transfers. Whether they would have succeeded no one can know, because the 1992 elections intervened.

The industry, however, correctly sensed that with Clinton's election the time for pushing for decontrol was ripe. Their first step came in late 1993 when they asked the Commerce Department to persuade the White House to drop government monitoring of contractors' discussions with the Chinese. They wanted to share, unimpeded by monitors, a key technology known as "coupling load analysis." The crude Chinese rockets were originally designed to be so rigid that vibration from the rocket's separating stages and engines risked shattering delicate satellites of the sort the U.S. companies would want to launch (and the Chinese would want to develop later on their own). Using coupling load analysis, the Chinese would "soften" their launchers, allowing them to carry more sensitive payloads—be it satellites or the latest in highly accurate, multiple-warhead systems.

The space industry was so eager to share this technology, it lobbied Congress and the executive branch throughout 1993 to be given a free hand to do so. Meanwhile, government monitors continued to file compliance reports on a host of issues. Now, however, their concerns were handled differently: Where before senior State and Defense officials took action, now little or nothing happened. Word got out: Increasingly, industry officials disobeyed government guidance, shared their know-how with the Chinese, and discovered that contempt for the law paid off.

By 1995, the satellites being launched by the Chinese were more sophisticated. One of these, AsiaSat 2, a communications satellite made by Martin Marietta, was to be placed in its orbit with a Chinese solid-rocket kick motor—a final rocket stage strapped to the satellite itself. This kick motor's propellant had to be configured with extreme precision to ensure that it would propel the satellite to an exact point in space and no further and that it would do so without shattering the satellite though vibration or jolts of acceleration.

Martin Marietta and its Hong Kong customers were concerned that the Chinese kick motor might not be capable of such precision. They asked State if they could witness a Chinese test-firing of the motor. Their wish was granted. What's unknown is what, if anything, was then said to the Chinese engineers by the company's foreign staff, who are not bound by U.S. restrictions. Were they briefed by the contractor? Did they speak with the Chinese or otherwise convey U.S. solid-rocket propulsion know-how? We don't know. Why might it matter? Perfecting kick motors can also help in China's development of a warhead-delivery system known among experts as a "post-boost vehicle"—which is designed to penetrate missile defenses. Boosting a satellite up into a precise position in space with a kick motor is little different from blasting warheads off their predictable course down through space and the atmosphere.

The good news in this case is we may have a clue whether this technology was leaked: Industry's campaign to do away with monitoring didn't fully bear fruit until 1996. In 1995, U.S. law still required government monitoring agents, and compliance reports were still being filed. This paper trail and government monitoring work didn't grind to a halt until 1996. That's when President Clinton quietly removed virtually all commercial satellites and related technology from State Department munitions controls (which required official monitors). The responsibility was transferred to the Commerce Department, which (no surprise) trusts industry to monitor itself.

In his defense of the Clinton policy last week, Mike McCurry cited this transfer to Commerce as the one change that distinguished the Clinton administration's policy

from Bush administration practices. But the transfer to Commerce was no simple "change." It was tantamount to a complete overthrow of the old export-control regime.

It was under Commerce "controls" that Motorola and Lockheed worked with the Chinese to launch a series of small communications satellites known as Iridium. Two of these satellites at a time were successfully launched on a Long March rocket with a multiple-satellite dispenser of Chinese design. A host of issues about the satellite dispenser were somehow addressed—from proper mounting and release of the satellites to coupling load analysis and attitude control. And all were resolved. The result? China now has mastered a technology virtually interchangeable with that of multiple independently targetable warhead vehicles (MIRV), a delivery system used on America's most advanced intercontinental ballistic missiles. Indeed, the MIRV system that our military uses today was borrowed from dispensers that the commercial-satellite industry first developed.

One could go into greater detail on the potential military significance of our satellite transfers to China. But this much is already abundantly clear: Our national security demands that Congress learn all the facts. This will require going beyond the narrow legal question of whether Loral and Hughes broke the law in 1996. Indeed, allegations of influence peddling by the Chinese and the contractors should not divert attention from the crucial questions raised by a decade of U.S. satellite commerce with China.

Among them are these: Have we already given the Chinese everything of value (in which case, continued satellite commerce could hardly do much harm)? Or is there more that they need or want that we should control and protect? What, if anything, should be done to improve enforcement of controls and assure effective executive-branch backing? Finally, is the spread of missile technology so tied up in the transfer of satellites that we delude ourselves in trying to control their transfer? Would it make more sense to accept this connection and expand such trade, or in the case of China, cut it off entirely?

To get it these questions, Congress will have to hold its own hearings—but it will need the time and depth and expertise that can only come with the creation of an independent commission. The commission and Congress, moreover, are unlikely to get anywhere if U.S. contractors are unwilling to speak freely. Only they know what has actually been transferred to the Chinese since 1996. To encourage them to be forthcoming, Congress and the executive branch should grant contractors immunity from prosecution. Meantime, a moratorium should be placed on further transfers of satellites to China until the commission and Congress get the answers they need. This will hurt industry only to the extent that it drags its heels in providing information about past transfers.

Certainly, given the seriousness of these matters, it would be shortsighted of Congress to focus exclusively on the political and legal issues surrounding the 1996 Loral case. There is, after all, a broader set of concerns at stake. The president is duty bound to provide for the common defense. Not until we know the truth about the U.S. role in China's missile program can we know whether the Clinton administration has met this most basic obligation.

[From the Weekly Standard, June 1, 1998]

CLINTON'S CHINA COMMERCE

(By Matthew Rees)

The Clinton administration made a fateful decision in 1996 to put the Commerce Department in charge of overseeing exports of American satellite technology. Under fire now for transferring this weighty responsibility from the more security-conscious State Department, the administration insists the decision had nothing to do with campaign contributions from eager exporters. Instead, say the president's spokesmen, the transfer was just the outcome of a "bureaucratic squabble."

Whatever role donations may be played in strengthening Commerce's hand, allowing that department to license militarily sensitive goods for export was not garden-variety Washington turf battle. It was the equivalent of decontrolling such exports entirely. The current congressional investigations of technology transfers to the Chinese military would not be taking place if, over the past five years, the administration had not given Commerce unprecedented power to promote American technology sales abroad, with dangerously little attention paid to how these exports can contribute to nuclear proliferation, threaten the supremacy of the U.S. military, and undermine America's national security.

The decontrolling mentality of the Commerce Department is exemplified by William Reinsch, who heads the department's Bureau of Export Administration. This is where American companies go if they want to sell sensitive products, like supercomputers in foreign countries. The bureau's role is both to stop exports that might compromise national security and to help guarantee that the sensitive products it does approve for sale abroad don't end up in the hands of untrustworthy governments.

But Reinsch has effectively made the bureau a servant of Commerce's central mission: unbridled export promotion. His motto is "Yesterday's adversaries are today's customers." This mentality has led Commerce to minimize the danger of sharing sensitive technology with countries like China. The Pentagon concluded last year that "United States national security has been harmed" by the assistance American aerospace companies have provided to China. Nonetheless, Reinsch was apoplectic when the House overwhelmingly voted on May 20 to block further exports of U.S. satellites to China: "We're talking about the potential loss of major contracts," he whined to the Wall Street Journal. "It could really complicate people's lives."

The controversy over the transfer of technology to China is but one outgrowth of Commerce's policy of giving American high-technology companies unprecedented freedom to sell their products in foreign markets. Another startling illustration of the fervor with which Commerce promotes the sale of even the most sensitive exports came early in 1996. According to Gary Milhollin, of the Washington-based Wisconsin Project on Nuclear Arms Control, that's when U.S. government nuclear experts asked Commerce to provide American computer companies with a list of nuclear laboratories in Russia and China. The goal was to prevent the companies from selling their high-performance supercomputers to these laboratories, which the companies might not otherwise know to be in the nuclear business. But Commerce officials refused to provide such a list, claiming U.S. policy prevented them from sharing such information.

While Commerce aggressively pushed exports in the Reagan and Bush administrations, it had not yet triumphed over its bureaucratic rivals elsewhere in the executive branch, who acted as a brake on Commerce's salesmanship. The Defense Department, notably, would frequently challenge export licenses that posed a potential threat to America's strategic position. But a further sign of Commerce's ascendancy in the Clinton administration is that the Pentagon, too, has become an enthusiastic partner in promoting the sale of American goods in overseas markets. (Reinsch said in an interview last November that relations between Commerce and the Pentagon are "the best they've been in 20 years.") This is not just a matter of politically savvy defense officials' knowing which way the wind is blowing. An array of these officials appointed to senior positions by the president—William Perry, Ashton Carter, Mitch Wallerstein, Ken Flamm, to cite a few—had made names for themselves as longtime supporters of easing export controls.

A key official is Peter Leitner, a 12-year veteran of the Pentagon office that oversees export controls. He notes that the Defense Department now instructs its employees to side with Commerce in interagency debates over export controls. In congressional testimony last year, Leitner observed that "this bizarre role change finds the State Department at times in the farcical position of being the lone agency making the national security case and opposing liberalization positions from DoD."

Despite their generally pro-export posture, State and Defense still had reservations about transferring responsibility for licensing the export of satellite technology to Commerce. And their reservations were justified: For items under State's jurisdiction, the decision to grant an export license is supposed to be based only on national security. Moreover, Congress must be notified 30 days in advance of an export. By contrast, Commerce is mandated to weigh commercial and economic interests, and it is not required to notify Congress of its decisions. With communications satellites costing upwards of $100 million, it's easy to see how commerical concerns would tip the scales away from export controls.

When Clinton announced the transfer of licensing responsibility on March 14, 1996. Commerce officals—who had lobbied hard to be given licensing repsonsibility—were thrilled. The New York Times reported that an e-mail was circulated at Commerce announcing "good news" but warning recipients not to publicize the decision in a way that would "draw attention" to it. Clinton officials did their best to bury the news by not publishing the new rules in the Federal Register until Election Day 1996. The strategy worked: One of the most important national-security decisions made in Clinton's first term received scant attention during his reelection campaign from Congress and the press.

Satellites weren't the only technology transferred from State to Commerce two years ago. Clinton also took something known as "hot section" technology of the State Department's munitions list and empowered Commerce to license such exports. Hot-section technology boosts the performance and durability of fighter jets. Steve Bryen, who oversaw export controls in the Reagan administration, says this technology is so sensitive that in previous administrations it wasn't even shared with allies like the French and the Germans.

During the internal debate over transferring hot-section jurisdiction from State to Commerce, some Clinton administration officials raised questions about whether America's national security would be compromised and whether it might reduce the combat advantage of U.S. aircraft. But Commerce officials argued it would be impossible for the technology to be used by foreign manufacturers in such a way that U.S. military power could ever be equaled or surpassed. To the amazement of many Pentagon officials, this argument prevailed and responsibility for licensing exports of the technology was handed from State to Commerce.

Commerce officials have gone to extraordinary lengths to circumvent even the most modest restraints placed on them. Last year, Congress approval a measure requiring American computer companies exporting to countries believed to pose a proliferation risk (that is, Russia and China) to give the executive branch 10 days' notice to determine whether a proposed supercomputer export requires an individual license. The measures also requires that, once supercomputers have been licensed and shipped to countries of proliferation concern, U.S. government officials must check whether the buyers are using the computers as proposed.

Yet Commerce has made a "deliberate effort to circumvent" the post-shipment verifications, according to Milhollin. Indeed, under Commerce's interpretation, in order for the government to block an export, only the most senior cabinet officials—undersecretaries or higher are permitted to intervene. This prompted David Tarbell, who heads the Pentagon agency that monitors export controls, to warn in an internal memo that the National Security Council and Commerce were using the undersecretary requirement to "ensure that no (or very few) objections would ever be received." Tarbell's complaint is echoed by three Senate Democrats, and 10 Republicans, who have sent the president a letter asking for the law to be enforced.

There was a very precise reason Congress required the regulations: It has become disturbingly clear that Commerce had little clue about the ultimate destination of an extremely sensitive product—supercomputers. Silicon Graphics, for example, has acknowledged having sold four supercomputers to one of Russia's premier nuclear-weapons design laboratories, Chelyabinsk-70, and claimed it made the sale only because company officials didn't know the laboratory was involved in nuclear production.

Even more troubling was Reinsch's announcement last June that 47 supercomputers had been sold to China. Technical experts say these computers provide unprecedented technological capabilities to Beijing are likely to become a key element in China's nuclear program. But when Reinsch was asked about this at a congressional hearing last November, he said there was no evidence any of the computers was being used for nuclear purposes. When pressed by Rep. Duncan Hunter on whether Commerce even knew where the computers were located, Reinsch bobbed and weaved until finally giving an answer that summed up the bankruptcy of the Clinton administration's export policy: "With respect to some of them, yes. With respect to all of them, not yet."

There's a simple reason Reinsch couldn't be more definitive: China won't allow American officials to conduct post-shipment verifications, designed to guarantee that materials exported from the United States are being used as promised. Thus Reinsch acknowledged last December—six months after learning about the 47 supercomputers sold to China—that "no formal post-shipment verifications have yet been requested." And now that another six months have passed, there's no evidence Commerce knows anything more about where the supercomputers are or how they're being used.

So what has the Clinton administration learned about the pitfalls of a permissive export-control policy? Apparently nothing. Consider this: The Defense Technology Security Administration—the agency charged with overseeing export controls for the Pentagon—is scheduled to be abolished this fall. Its successor agency will be moved within Defense to an acquisitions department that has traditionally been hostile to export controls. Even more ominous is a recent Defense News report that the Commerce Department is pushing to grant an export license for the sale of a high-temperature furnace, manufactured by a New Jersey-based company called Consarc, to a Chinese government agency. This sale—already approved in an interagency process—is all the more remarkable because the furnace will bolster Beijing's ability to produce nuclear warheads.

There's an interesting story behind the furnace. Consarc was all set to ship it to Iraq in 1990, one month before the invasion of Kuwait. The sale was blocked at the last minute by senior officials at the Pentagon and the National Security Council. Had it gone through, there's little doubt Saddam would have used it to bolster his arsenal. Clinton administration officials should have learned something from this. Short of a missile attack, what will wake them up?

[From the New York Times, June 18, 1998]

U.S. RETHINKING A SATELLITE DEAL OVER LINKS TO CHINESE MILITARY

(By Jeff Gerth)

WASHINGTON, June 17.—Faced with growing criticism of its satellite exports to China, the Clinton Administration is rethinking whether to allow one of the biggest sales to date, a $650 million deal President Clinton quietly approved two years ago.

Government officials said the Pentagon and State Department were raising new questions about whether a Chinese-controlled company with close ties to China's military should be allowed to buy the satellites, which contain some of the United States' most sophisticated communications equipment.

The satellites are the cornerstone of a commercial mobile phone network planned for China and 21 other Asian nations. American officials said their design included a powerful antenna that could eavesdrop on mobile phone calls in China or other countries in the region. It could also be used by the Chinese military to transmit messages through hand-held phones to remote parts of China.

Antennas of these dimensions are a mainstay of the United States' and Russia's eavesdropping satellites and have not previously been exported to China, though a sale to the United Arab Emirates is pending. They also can be used to extend the range of mobile phones.

Mr. Clinton leaves next week for China, and the Administration had hoped to use the trip to showcase a variety of business deals and agreements, including cooperation on civilian satellite and rocket projects. Meanwhile, the House continued investigating the export of space technology today.

Administration officials said concerns about the pending satellite sale had been deepened by American intelligence reports about Shen Rongjun, the Chinese Army general who oversees his country's military satellite programs. The reports quote the general as saying he planned to emphasize the role of satellites in gathering information.

In an unusual arrangement, Hughes Space and Communications hired General Shen's son, a dual citizen of Canada and China, to work on the project as a manager. The company said it was aware of his familial ties; it is not clear whether the Clinton Administration knew.

Father and son were both directly involved in the project, and American officials said the intelligence reports said the general was pressing his son to move it forward.

The New York Times reported last week that the Chinese military was sending many of its coded messages through American-made commercial satellites sold to Asian companies. China's military satellite network collapsed in 1996, when its first satellites wore out and the replacements failed to work as planned.

President Clinton approved the Hughes project on June 23, 1996, after advisers assured him the communications satellite technology was readily available from European suppliers and would not contribute to Chinese military capabilities.

China already has a burgeoning cellular telephone system, which relies on ground-based transmitters. There are almost 1.5 million cellular phones in Beijing and Shanghai, but the system is less developed in the country's more remote areas, industry officials say.

Donald O'Neal, a spokesman for Hughes, said the satellites were "inherently dual use," meaning that they have both civilian and military potential. "The satellite is not designed for military application," Mr. O'Neal said. "But I don't know how you can prevent it."

The Federal Government could still stop the deal. Mr. O'Neal said Hughes, which is part of Hughes Electronics, a subsidiary of the General Motors Corporation, was waiting for the Commerce Department to review its application to sell the satellite to the Asian consortium, A.P.M.T. or Asia-Pacific Mobile Telecommunications.

Liu Tsun Kie, a spokesman for the consortium, said in a telephone interview from Singapore that the satellite network would be marketed to civilians by regional telecommunications operators. It would be up to Chinese Government regulators, Mr. Liu said, to decide if China's military could use the satellites.

Mr. Liu predicted that the Clinton Administration would eventually approve the deal. "In view of the improving Sino-American relationship, as well as the close rapport established between the U.S. satellite industry and major industry leaders in China and the Asia Pacific," he said, "we are confident that A.P.M.T. will obtain all the necessary approval and export license to insure no delay in satellite launch."

Mr. Liu said the project would attract more than 200,000 mobile phone customers in China within its first two years.

THE TWO CRUCIAL STEPS IN A SATELLITE SALE

Making a satellite sale to China involves two crucial steps that occur simultaneously. Aerospace manufacturers must persuade the President to sign a waiver of the sanctions imposed on Beijing after the Tiananmen Square killings in 1989. Each project requires a separate waiver.

At the same time, companies apply to Federal Government agencies for permission to

export specific technologies used in the satellites. Satellite exports to the Chinese military are banned, but sales to Chinese companies are generally allowed, unless they would advance military development in areas like intelligence gathering and nuclear weapons.

Mr. Clinton granted the waiver for the Hughes project two years ago and the company obtained the necessary export licenses. Since then, however, Hughes has changed the design to enhance the satellite's capabilities, requiring it to return to the Government for a new license.

That decision is now before a Government Department and including officials from the Pentagon, State Department, the Arms Control and Disarmament Agency and the Department of Energy. Each department casts a single vote, with the decision made by majority rule. A dissenting agency can appeal to the President, but that has never happened.

A Commerce Department spokesman declined to discuss the case, saying it involved confidential business information.

Privately, Commerce Department officials are arguing that the deal should go forward because the design approved in 1996 is substantially the same as the current configuration, Administration and Congressional officials said.

But some Pentagon and State Department officials believe the license should face more scrutiny in light of the new information about General Shen and the capabilities of the satellite. Administration officials also said that the increased scrutiny by Congress of the Chinese military and American satellites has prompted officials to pay closer attention to exports to China.

Several Congressional committees are investigating whether the policies on technology exports hurt the national security.

TECHNICAL QUESTIONS DETERMINE FATE OF DEAL

The issue turns on highly technical questions. An Administration official who disagrees with the Commerce Department's analysis said the Hughes design is substantially different from what was approved two years ago.

"The antenna sent up the flags," the official said. "It is more powerful than what we have licensed before."

The antenna allows the satellite to receive incoming signals. But a sophisticated antenna, like the one currently under review, can become a listening device that is very effective against ground-based interception efforts, Government reports show.

Before 1996, the Pentagon could easily have stopped the license, because satellites were treated as military items and subject to State Department authority. That year President Clinton shifted jurisdiction to the Commerce Department, easing the controls and lessening the influence of the Pentagon, a senior Government auditor told Congress earlier this month.

A.P.M.T. was organized in the early 1990's. Most of its stock was held by five Chinese state-owned entities: China Satellite Launch and Tracking Control, a unit of Costind, and scientific and research arm of the Chinese military, the China Aerospace Corporation, part of the defense-industrial complex, China Resource Holdings, a trading company that owns a bank in Hong Kong with the Riady family of Indonesia, and subsidiaries of Chinese electronics and telecommunications ministries. A small stake was held by a Singapore company.

In February 1996, the consortium authorized Hughes to proceed with the design and construction of a sweeping mobile satellite telecommunications network that would span 22 countries in Asia and the Pacific, from Pakistan to Indonesia.

China's own space program—both rockets and satellites—was then under severe strain.

A Chinese rocket exploded shortly after liftoff in February. Two months later, engineers from Hughes and Loral Space Communications were brought in by insurers and China Aerospace to help figure out what went wrong.

The conversations that ensured between the companies and Chinese technicians are now the subject of a criminal investigation, which is seeking to determine whether American export laws were violated. Both companies deny wrongdoing.

While China is trying to repair its rocket program, its satellites began to fail. The first domestically produced satellites, launched by the Chinese military in the early 1990's were wearing out, and the first replacement, built in cooperation with the German company Daimler-Benz, had failed to achieve proper orbit after its 1994 launch.

In early 1996, all this led China's most senior military official, Gen Liu Huaqing, to discuss his concern with General Shen, who until a recent reorganization was a senior Costind official and oversees China's satellite and rocket launching programs, American officials said.

General Shen and General Liu have publicly promoted satellite technology as crucial to the future development of China's military capabilities. General Shen has privately assured his colleagues about his ability to fix China's satellite problems and improve the military's surveillance and intelligence-gathering capabilities, American officials said.

At about the same time, there were concerns within Hughes and A.P.M.T. over how long it was taking President Clinton to make a decision about the deal, Mr. O'Neal and American officials said.

Commercial satellite exports to China have been banned since the killings in Tiananmen Square in 1989, but the President can waive the prohibition, which Presidents George Bush and Clinton have done 20 times.

'EXPEDITED HANDLING' OF WAIVER WAS SOUGHT

Hughes officials wanted "an expedited handling" of the waiver in order to meet a contractual deadline, Mr. O'Neal said. And recently released White House documents show that the company hoped to have the President sign off on the deal before Hughes' chairman left China on June 19, 1996.

The staff memorandum that the President relied on to approve the deal made no mention of the Loral-Hughes help for China's rocket program. Three weeks before the memorandum to the President, the State Department had alleged, in a letter to Hughes, that there had been a violation of the arms export control law during the rocket accident review.

The President granted the waiver on June 23.

Soon after the Presidential action, Hughes received a license to export a satellite. Later that summer, Hughes applied for another export license that would allow Shen Jun, the son of General Shen, to work on projects subject to United States export controls, including the A.P.M.T. project, Mr. O'Neal said.

"We applied for and received an export license that allowed him to participate as a translator in the A.P.M.T. preliminary design review," Mr. O'Neal said.

Mr. Shen was hired in 1994 by Hughes for his computer expertise, though the company was also aware of his family ties before he joined the company, Mr. O'Neal said.

General Shan has been involved in the A.P.M.T. project as the overseer of the Chinese launch and tracking company and his son has given Hughes marketing advice about China and technical advice about mobile telephone networks, Mr. Liu and a Hughes executive said.

Mr. O'Neal said he had no comment on the Shen family discussions because "anything he said to his dad is personal."

Despite all the flurry of activity in mid-1996 between Hughes and A.P.M.T., the deal bogged down amid internal squabbles. But by this year the pace had picked up again and last month the consortium reorganized itself and signed another deal with Hughes for an upgraded satellite.

The new satellite will have greater power to transmit and receive signals. Its payload includes a large scale antenna reflector and a digital on board processor, Mr. Liu and Mr. O'Neal said.

The antenna and processor enabled the consortium's network to pinpoint low-power hand-held phones and simultaneously handle 16,000 phone conversations. Mr. Liu said that the regional affiliates "will be able to intercept calls if required by local authorities" but the consortium will not be able to intercept.

As a result of the recent reorganization, the consortium is now two thirds owned by its Chinese affiliates China A.P.M.T., said Mr. Liu, the consortium's deputy president. China A.P.M.T., in turn, is owned by the same five Chinese entities, including the Costind unit, and it will be the local A.P.M.T. franchise in China.

The president of A.P.M.T. and China A.P.M.T. is Li Baoming and A.P.M.T.'s chief engineer is Feng Ruming. Mr. Liu said both men have senior posts with the China Satellite Launch and Tracking Control Corporation, the unit of Costind overseer by General Shen. American intelligence reports say Mr. Feng and Mr. Li are top military officers, according to Administration officials.

Mr. O'Neal said that Hughes was "not aware" of A.P.M.T.'s military ties and while "there could be" some, it was up to the Federal Government to vet those connections. That is precisely what is now happening.

Mr. Speaker, the House should heed the advice of former CIA Director Jim Woolsey who testified before the Committee on Rules that, quote, this is what he said, "I can think of no subject that more closely would require a careful and thorough investigation by a select committee of Congress, and I could think of few that would even be in the same league." That is what the former CIA director said, that was appointed by President Clinton.

Mr. Speaker, I would urge all Members to support the creation of the Select Committee so that Americans can have some answers to the questions about the formulation of United States security policy with regard to Communist China.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Speaker, I rise in support of this resolution, which, I am pleased to say is the result of much hard work and bipartisan cooperation on the part of the leadership, the Rules Committee, and the prospective chairman and ranking member of the proposed select committee. I am very proud of the manner

in which this process has been handled, and I think this resolution is a credit to all involved and to the entire House.

To the minority members of our Rules Committee, who raised in their views accompanying our report repeated concerns about the manner in which this inquiry will be handled, I point to the remarks of both the chairman-designate, Mr. COX, and the ranking member-designate, Mr. DICKS, before our Rules Committee panel. They are developing a strong bipartisan working relationship and came to the Rules Committee together in full agreement about the particulars of this resolution.

They both spoke of commitment to running a professional, serious and collegial inquiry.

Mr. Speaker, it's fair to say that we all would prefer not to be here today creating a select committee to review U.S. national security and military/commercial concerns with the People's Republic of China. We would certainly all prefer that we did not have before us very serious allegations of illegal foreign influence in our Democratic process, troubling concerns about the transfer of highly sensitive military information and technology to the Chinese, and the very real potential that palpable damage has been done to our national security.

But the fact is that we have been presented with serious and credible allegations on these points—and the American people want us to get to the bottom of what happened, how it happened, and what the impact has been for the security of our citizens and our interests.

We have an obligation to accomplish this goal in a thorough and timely manner, and I am convinced that the only good way to do that is to establish this select committee.

Members know I do not take this step lightly. As chairman of the House Intelligence Committee, I am aware of the jurisdictional authorities relevant to this subject, not just in my own committee, but in as many as 7 other House committees. I know that many of these permanent committees of the House have, in fact, been pursuing pieces of this investigation up to this point.

But the fact remains that we need to move on this and start getting some answers to these serious questions now. For that we need to have a relatively small, singly focused panel with the enhanced investigatory authorities provided by this resolution. The resolution provides mechanisms to ensure that the Select Committee has the clout to get its work done and has proper channels through which to have maximum cooperation with, and assistance from, the existing House committees.

It certainly makes sense to me that on matters of such grave importance as the national security and the sanctity of our domestic political system, we should all pull together in a bipartisan way to shed light on the truth and, if necessary, consider means to ensure that proper protections and safeguards do exist in our policies on technology transfers and controls over sensitive information with respect to foreign nations.

I agree with former Director of Central Intelligence James Woolsey who said in testimony at the Rules Committee this week that he can think of no subject that more clearly would require careful and thorough investigation by a select committee of the Congress.

Finally, Mr. Speaker, let me say that I very much hope the administration will make good on its pledge to cooperate fully with this important inquiry. And by cooperate I mean not just talking about being helpful, but about actually providing all relevant material to the inquiry, helping the select committee gain access to the individuals it needs to interview, and offering a full and complete accounting of its relevant policies.

I would hope that we do not see more of the practice we've become used to with this administration of attempting to change the subject, throw up roadblocks and shoot the messenger when serious questions are raised about its policies and decisionmaking. The American people expect and deserve better than that from this administration.

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

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

Mr. Speaker, the gentleman from New York (Mr. SOLOMON) and I had a discussion about an hour ago on the rule, and at that time I urged the gentleman to not engage in a public hanging before the facts are in. And I would repeat that at this point.

Mr. Speaker, it is a foregone conclusion that the House will vote today to create a new Select Committee to investigate the allegations that a U.S. company transferred sensitive technology to the People's Republic of China that could endanger national security and that campaign contributions played a role in obtaining the licenses necessary for U.S. companies to launch their satellites on Chinese missiles. I support the creation of the Select Committee. But I do so with some reservations.

Mr. Speaker, my reservations are shared by my Democratic colleagues on the Committee on Rules which has original jurisdiction to create this Select Committee. In our committee report minority views, we have laid out our concerns about the structure of the Select Committee and the decisionmaking process that is provided for by the enabling resolution.

We are heartened that the designated ranking minority member, the gentleman from Washington (Mr. DICKS) feels that he has reached an understanding with the designated chairman of the Select Committee on several matters that are vitally important to assuring that the Select Committee's work product is viewed as fair and that the rights of the minority have not been ignored.

However, Mr. Speaker, there are matters which I do feel compelled to bring to the attention of the House. The Committee on Rules majority states at the outset that they have used the Iran-Contra Select Committee as a model for this Select Committee. While this model bestows extraordinary powers on the chairman, Iran-Contra also stands as a model of bipartisan cooperation and the joint leadership of that committee acted jointly on all matters of procedural concern.

The Democratic members of the Committee on Rules hope that the model of bipartisanship on the Iran-Contra Select Committee holds true on this Select Committee.

Our fears of abuse, while tempered by the reputation for fairness of the designated chairman of the Select Committee, are based on the experience of the past year and a half. Granting unilateral powers to the chairman of such a serious investigation gives us serious concern, and we hope, for the sake of the integrity of this body and for the finding of truth in this matter, that the assurances that we have been given that the rights of the minority will be protected in this investigative process and that the minority will be consulted on all important matters coming before the Select Committee.

This happened during Iran-Contra, and if that Select Committee is to serve as a model for this one, we hope that the same level of bipartisan cooperation would exist over the course of this investigation.

Mr. Speaker, we are concerned about the unilateral subpoena power, unilateral deposition power, as well as the ability of the Select Committee to gain access to 10 years' worth of tax returns of individuals and entities under investigation by the Select Committee. We are concerned about how this information will be handled, and under what circumstances it will be released to the public.

These are all legitimate concerns, but we remain hopeful that the participants in this investigation will realize that if it is tainted by accusations of partisan high-handedness, that any findings and recommendations that may be made will be tainted as well.

Finally, Mr. Speaker, my Committee on Rules Democratic colleagues and I are particularly concerned about the breadth and scope of this investigation. This resolution rightfully empowers the Select Committee with the authority to make a full and complete inquiry into not just technology transfers which may have contributed to the enhancement of the offensive capabilities of the People's Republic of China and its effect on the national security concerns of the United States, but other issues relating to export policies and the influence of campaign contributions. These are legitimate areas of investigation, but I am concerned that the authorities granted in this resolution are so broad that the Select Committee could go on working well into the future.

In addition, Mr. Speaker, I would like to point out that the designated ranking member of the Select Committee, the gentleman from Washington (Mr. DICKS), has asked that the many other investigations now ongoing suspend their investigations of those matters

under the jurisdiction of the Select Committee while it is in operation.

This is necessary, Mr. Speaker, to ensure that the Select Committee can get its work done and not find the need to go on ad infinitum, and I hope the other committees of the House will cooperate in this matter. We need to find out what has happened and the Select Committee needs to go on about its business and report back to the House as soon as possible.

Mr. Speaker, I support the creation of the Select Committee, but I do so with an important caveat: If this investigation wanders from the focus of determining the answers to the questions at hand and if some of my colleagues insist upon demagoguing this issue, they risk damaging not only the legitimacy of any of the findings of the committee, they risk damaging the integrity of this institution. I urge the Select Committee to ensure that its investigation is fair and thorough.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would point out to the gentleman, because I know the gentleman from California (Mr. CONDIT) brought this up, worrying that this might go into another Congress and may run up costs of up to $5 million, I would just point out that the language speaks specifically for this Congress and this Congress only. It would take a further action by this body. So I wanted to call that to the attention of the gentleman.

Mr. FROST. Mr. Speaker, reclaiming my time, I appreciate the comments of the gentleman. There is an underlying question here which may well drive this investigation into the next Congress, which of course would have to be authorized by the next Congress. The underlying issue is the concern that the gentleman from New York (Mr. SOLOMON), who is the chairman of the Committee on Rules, has raised for many years about whether we ought to be doing any of this.

Of course, the gentleman who is the chairman of the committee has objected to and opposed the transfer of technology which began during Republican administrations. And my concern is that if this committee goes to the fundamental issue of whether we ought to be doing business with China, that is a bottomless pit and that is a matter that could go on for a very long time.

There are legitimate differences within the Republican Party on this issue, as there are legitimate differences within the Democratic Party on this issue. So there is the potential for this investigation, even though it must be renewed at the beginning of the next Congress, to go on for a very long time if we go into the underlying foreign policy question of whether we ought to be doing any business with China.

Mr. SOLOMON. Mr. Speaker, if the gentleman would continue to yield, I think it might help to clarify. The gentleman is absolutely right. He and I were around during the Iran-Contra debate and I have here the final report of the Iran-Contra Committee. The last paragraph says, "The President cooperated," and this is talking about President Reagan, "cooperated with the investigation. He did not assert executive privilege. He instructed all relevant agencies to produce their documents and witnesses, and he made extracts available."

Mr. Speaker, I wanted to point out if we do get full bipartisan cooperation, I do not expect this to go any further because of the narrow scope.

Mr. FROST. Mr. Speaker, reclaiming my time, while the scope of the matter under discussion today is fairly narrow, the resolution itself is very broad. It is possible that this resolution could be used in a future Congress as a means for examining the entire foreign policy of the United States as it relates to China, regardless of whether there was any wrongdoing found by this investigation.

I only raise that cautionary flag, as I did in the Committee on Rules, because that is really a legitimate matter to be determined by our foreign policy committees of this Congress, perhaps even by our Select Committee on Intelligence, perhaps by our Committee on National Security, but not necessarily by this Select Committee. Because the gentleman and previous Republican Presidents have a philosophical difference on this issue, and I would hope this Select Committee does not go to that philosophical difference of whether we ought to be engaging China, but simply limits itself to the matters at hand which raise the question of whether there was improper conduct in terms of the implementation of that policy.

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

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA), an outstanding veteran Member of this Congress from Ridgewood, New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I do appreciate the gentleman from New York (Mr. SOLOMON) yielding me this time at this point in this debate.

Mr. Speaker, I rise in strong support of this proposal. It is essential and timely. There is a compelling need for this committee. New evidence has come to light that against the recommendations of the Defense Department and the State Department, how conditions were waived and national security considerations were waived, and Loral Space and Communications transferred sensitive satellite and missile technology to China.

Mr. Speaker, I must also say that the technology, as we now know, allowed the Chinese to greatly improve their ballistic missile and guidance capability. We have recently learned about proliferation of nuclear weapons in India and Pakistan. That may or may not have any relationship. But in any case, the timeliness has been proven and these are important national security issues at hand.

But I must say we must put politics aside. As the gentleman from Florida (Mr. GOSS) said during the earlier debate, this is not about fault-finding. I would therefore call upon all of us, Republicans, Democrats, to put politics aside and proceed with a strong interest and fairness to find the truth in this matter. The national security ramifications of this investigation are too important to become mired in politics.

Then I must feel compelled to say that I am so pleased that we have as chairman the gentleman from California (Mr. COX). We all have utmost faith in the gentleman's ability to lead this investigation. He has the experience, he has the knowledge, and above all, he has the trust, based on that experience, of all of his colleagues because he is known as the essence of honesty, fairness and tact.

In conclusion, I want to be very clear. This is not about a real estate deal. We must, we must approve this and get on with the business of the security interests of our country.

Mr. Speaker I rise in strong support of H. Res. 463—Establishing a Select Committee to Investigate Concerns with the Peoples Republic of China. This is essential and timely.

The Investigation. This could become one of the important Congressional investigations to date. This Committee will focus on the real National Security concerns that have been surfaced, hence its title. The Members of the Select Committee will have experience and knowledge of defense, national security, and intelligence issues.

There is Compelling Need for the Committee. New evidence has come to light that against the recommendations of the Departments of Defense, State, and Justice, in February 1998, President Clinton waived national security considerations and allowed Loral Space and Communications to transfer sensitive satellite and missile technology to China.

This technology allowed the Chinese to greatly improve their ballistic missile and guidance capability. The consequences of this transaction poses the greatest nuclear threat to the United States since the end of the Cold War.

We have seen in the last few months, the proliferation of nuclear weapons to India and Pakistan. With the Chinese perfecting their weapons systems, the world is becoming a much more dangerous place. This investigation will not only help us get the facts but it will help inform us on these important national security issues.

We Must Put Politics Aside. Our colleague Representative Goss stated: This is not about fault finding. These allegations have serious national security implications and should be investigated in a serious, bi-partisan manner.

I call on all Republicans and Democrats to put politics aside and proceed with a strong interest in integrity to find the truth in this matter. The National Security ramifications of this investigation is too important to become mired in politics.

I call on the President to act in good faith with the investigation and to release all documents relating to the case.

Congressman COX. My good friend from California, Congressman CHRISTOPHER COX will be in charge of this investigation. I have the utmost faith and confidence in Congressman COX.

He has the Experience: He was senior counsel on the Iran-Contra Investigation and an accomplished attorney.

He has the Knowledge: Congressman COX is a recognized expert on foreign affairs and the intelligence community.

He has the Trust: Throughout his career in Congress, Mr. COX has commanded respect from all of his colleagues for his honesty, fairness, and tact.

He will lead this investigation fairly and with a firm hand. He will not allow this very important matter to dissolve into "political theater." I strongly urge my colleagues on both sides of the aisle to work closely with Congressman COX to find the truth.

In conclusion, let me be very clear. This is not a real estate deal or a sex scandal and this is not about partisan politics. These charges go to the heart of our national security and potentially threaten every American. This Congress must rise to the challenge. A serious, professional and comprehensive investigation must be conducted to assure our national defense, and control over the laws of our land. I urge all Members to support this Resolution.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Mr. Speaker, I have enjoyed listening to the debate thus far where we have been asked on the one hand to put politics aside, and on the other hand we have heard the alarm sounded about all these terrible transgressions that have occurred supposedly in China. Prejudging the case as we create the jury system seems to be in vogue these days.

But Mr. Speaker, I support this resolution for a couple of reasons. One, I do not want to miss the opportunity to congratulate the Republicans on finally investigating something in the proper manner.

We have had 50 separate investigations in this Congress, 38 of them continuing. Not one of them has been brought to the floor in this manner so that all the Members could hear the evidence and decide whether they want to spend the public's money to conduct them. The rest of them are funded by the slush fund, we used to call it the Speaker's slush fund until we got a new Speaker. But it is really operated out of the Committee on House Oversight with a partisan majority and no input from the minority. They make the decisions as to whether or not we are going to pursue an investigation.

□ 1415

So I support this one because it is done at least intentionally in the right manner. I support the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS). I think they are honorable people.

I have confidence that, even though this may be somewhat too broad in its basic premise that the two of them working together as they have thus far will make sure that it does not go too far, does not really go from what I think is the consensus need we have in this institution to look at our policies in regard to technology transfer and exports to China.

There has been a lot of Clinton bashing, and I think unfortunately so. There has been a certain amount of unwarranted China bashing, the purple rhetoric I guess is expected in a campaign year.

But what is most important here is that we review American policy, policy that began with President Reagan, was implemented by President Bush, and this President. The same debates that we have had on export administration acts, on the armed services authorizations is occurring on this issue.

Those kinds of debates that we have had frequently on this floor the 20 years that the gentleman from Texas (Mr. FROST) and the gentleman from New York (Mr. SOLOMON) and I have served in this institution are the very subject that ought to be looked at by this Select Committee.

There is no question that we do have some policies that may need to be changed, but the implication that somehow we have acted here because of campaign funds flowing in one direction or another is I think a little bit hard to take from a Congress that refuses to even consider whether or not we are going to do away with soft money or reform the campaign finance system that we all, like it or not, have to live with.

I think this committee has been given the power to really move toward a solution to all the rhetorical debate that we have heard, some of which may really warrant policy changes.

I hope this committee's leadership will be given the membership that will focus on the details and on the issues that really need to be addressed and not the politics of election 1998. With that caveat, I support this effort and wish them well.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, for several months, no less than seven committees of the House of Representatives have been investigating issues relating to the transfer of technology between the United States and the People's Republic of China.

The resolution now before us would vest primary responsibility for the conduct of these inquiries in a select committee. Given the complex and contentious nature of these matters, many of which involve highly classified information, consolidating the current investigations in one committee with the authority to consider matters which cross jurisdictional lines is, in my judgment, appropriate.

The technology transfer matter raises important questions of national security. The House deserves to have these questions addressed in a manner which is thorough and which focuses on substance rather than seeking to maneuver for partisan advantage.

Based on my discussions as the perspective ranking Democrat over the past week with the gentleman from California (Mr. COX), prospective chairman of the Select Committee, I believe we share a commitment to make sure that the investigation is conducted, and the Select Committee operates, in a manner which brings credit to the House.

I want to commend the gentleman from California (Mr. COX) for his willingness to consider my views on ways in which the rights of the minority to participate in the work of the Select Committee can be better ensured. We have begun to forge the kind of working relationship which will increase the likelihood that H. Res. 463, the rules which the Select Committee will adopt, and the understandings which the two of us have reached and will reach are implemented fairly.

The Select Committee would have a limited amount of time to review some complex and potentially contentious issues. At this point, I believe the inquiry needs to examine the following matters:

First, the Select Committee must review the policy devised under President Reagan and continued in the Bush and Clinton administrations to permit U.S.-owned satellites to be launched on foreign rockets, particularly those of the People's Republic of China. Is this a sound policy which appropriately balances potential economic, technological, and national security risks and benefit for the United States?

In this context, we need to examine changes in that policy and its implementation over the past decade. We must also look at the proposed sale of satellites containing sophisticated communications equipment to the People's Republic of China.

The second matter arises from the failed launch of a satellite undertaken pursuant to that policy and concerns whether, in assisting the People's Republic of China in determining the causes of that failure, information harmful to the national security of the United States was transferred to the Chinese by representatives of U.S. companies.

I would note that any information transferred which might have had negative national security implications

was apparently done without the approval or knowledge of Executive Branch officials.

Was there an enhancement of the reliability of the ballistic missiles of the People's Liberation Army as a result of these transfers; and if so, how did that happen? This is an area in which we must proceed carefully, because legal proceedings are under way, but I believe the American people deserve as clear a determination as possible on the national security implications of these transfers.

The fact that the Department of Defense and the Central Intelligence Agency apparently reached different conclusions on this question underscores the difficulty of the Select Committee's task.

Finally, the Select Committee must examine whether money flowed into the political process in the United States from either domestic or foreign sources in an effort to influence Federal decisions on technology transfers. Were any decisions made to benefit a company, whether it be Loral or any other firm, because of campaign contributions? In this matter, as well, pending legal proceedings may affect our work.

As I noted, the Select Committee would have a relatively short life, and there is much to do. If it is the will of the House that a Select Committee be formed to conduct this inquiry, I would hope that the permanent committees which have had aspects of these matters under investigation will follow precedent and defer to the new committee.

It will not assist the Select Committee, nor will it justify the considerable amount of taxpayer funds to be authorized for this effort if it is to be but one of many investigations of these matters involving the same documents and the same witnesses. I hope the Select Committee can get the cooperation of the House in this area and in all others which may affect its ability to do its job.

Mr. Speaker, I urge the adoption of this resolution.

Mr. Speaker, I would like to enter into a colloquy with the distinguished chairman designee of the committee.

To the gentleman from California (Mr. COX), in the discussion of section 7, "Procedures for Handling Information," the Committee on Rules' report on H. Res. 463 makes clear that classified information may be disclosed publicly only pursuant to a vote of the Select Committee. Section 7, however, discusses the making public of any information in the Select Committee's possession, not only classified information.

Is it the gentleman's interpretation of section 7 that the Select Committee will vote to disclose publicly any information whether the information is classified or unclassified?

Mr. COX of California. Mr. Speaker, will the gentleman yield?

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

Mr. COX of California. Mr. Speaker, I thank the gentleman for yielding to me. That interpretation is the correct interpretation. As the gentleman knows, that section of this resolution, section 7, is taken essentially verbatim from the rules of the House concerning the procedures for the Permanent Select Committee on Intelligence of which the gentleman is the ranking member. Our procedure on the Select Committee will be the same as it is on the Permanent Select Committee on Intelligence.

Mr. DICKS. I thank the gentleman from California (Mr. COX) for that answer. In its discussion of section 10 of H. Res. 463, "Tax Returns," the report of the Committee on Rules notes the committee's intention that the authority granted by section 10 extends to the Select Committee "acting collegially."

Is it the gentleman's interpretation of sections 10 and 4 of the resolution that the act of "naming" an individual or entity under section 10 for purpose of inspecting and receiving tax information about that individual or entity shall be done pursuant to a vote of the committee?

Mr. COX of California. Mr. Speaker, will the gentleman yield to me?

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

Mr. COX of California. Mr. Speaker, that is, again, the correct interpretation. As the gentleman and I have discussed privately, this is a very important power that the Select Committee will possess. It should be used sparingly, not only after a vote, but after consultation and I would hope deliberation not only of the chairman and ranking member but all of our members.

Mr. DICKS. Mr. Speaker, I would also say, as the prospective ranking Democrat on this select committee if the House approves this resolution, we will be very careful and judicious about the use of this authority.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado Springs, Colorado (Mr. HEFLEY), one of the most knowledgeable Members of this House on national security and the chairman of the Subcommittee on Military Installations and Facilities.

Mr. HEFLEY. Mr. Speaker, I rise in strong support of this resolution. As a member of the Committee on National Security, I believe it is imperative that we form this investigative committee. We need to find out whether or not America's national security has been or is being harmed by current policies which govern the transfer of dual-use missile and satellite technology to China.

Presently, the Committee on National Security and the Committee on International Relations are holding a joint hearing on this very subject. One thing we are consistently being told by the Clinton administration officials is that the current policies are no different than the policies under President Reagan and President Bush. Mr. Speaker, that is simply not true.

Under Presidents Reagan and Bush, all military sensitive technology was licensed by the State Department. This licensing authority was further backed up by the veto power granted to the Department of Defense if they felt our national security could be compromised by a particular transfer.

Under President Clinton, the licensing authority has been taken away from the State Department and given to the Department of Commerce. The Commerce Department's goal is to promote business, not to protect national security. Additionally, the veto power of the Department of Defense has been removed. Clearly, economic and commercial benefits have become the most important factor in this administration's licensing determinations.

But all of that aside, that is not why I support this resolution. This committee is not to serve as a political witch-hunt, but instead a bipartisan investigation into whether or not we should be more worried about our national security today than we were yesterday.

We are dealing with the only Communist country in the world with nuclear capability. I urge the support of all Members on this resolution, because we are talking about the safety of our Nation. We are talking about the safety of our families.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Texas (Mr. FROST) has 11 minutes remaining. The gentleman from New York (Mr. SOLOMON) has 17 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, four years ago now, Speaker NEWT GINGRICH said this as quoted in the Washington Post, "Clinton Democrats should be portrayed as, quote, the enemy of normal Americans." He then goes on to say, "Republicans will use the subpoena power to investigate the administration."

Some 4 years later, 50 investigations later in this House, some $17 million later of taxpayers' money, recently in the Congressional Quarterly, a senior Republican leadership aide was quoted as saying this, "It has been very expensive, and it has not amounted to much."

In light of the use of taxpayer dollars and duplicative and, in many cases, dead-end investigations, my original intent would be not to support with taxpayers' money one more investigation. But I think, because of the quality of the leadership of this committee

and because of the importance of this issue, many of us, if not all of us, in this House want to support this resolution.

But I must express one reservation. I would imagine what an appeals court would say in reviewing a previous judge's decision in a case if, in the first statement in that court, the judge stood up and said in reference to the defendant in the case, talked about his sordid history, sordid history. Those were the words used in the very first statement by the gentleman from New York, the chairman of the Committee on Rules, in opening up what I thought was intended to be an investigation to get the facts first and then make the judgment what those facts can be concluded to say.

□ 1430

I would hope that perhaps I misunderstood, and I would be very happy to yield time to the distinguished chairman of the committee. I hope perhaps I misunderstood the context of his statement.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from New York.

Mr. SOLOMON. Since 1988, under Presidents Reagan, Bush and Clinton, I have opposed this policy. So there is no politics involved.

Mr. EDWARDS. So, to clarify for the record, the reference to "sordid history" refers to multiple administrations' policy in regard to technology transfer to China, and those remarks were not focused on this administration's particular actions that we are supposed to be reviewing in this matter?

I think this is an important point. If the first statement on the floor of this House is to say we are now going to review the sordid history of the person we are supposed to be investigating before we draw a conclusion, then a reasonable person in or out of this House must conclude that perhaps this will be somewhat like the Burton investigation, where the chairman of the committee was quoted as saying he wants to "get" the President before he has even concluded the investigation.

Again, I would hope to work with the distinguished chairman and others in reviewing all of the facts, listening to the committee before we determine whether this administration has been part of a sordid history or not. And, again, perhaps the chairman could better put in context the meaning of those words. I think that would be helpful to get this investigation started on a bipartisan, objective basis.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds to say to the gentleman, I do not know of any previous administrations where there were sordid facts, as far as companies like Loral that were involved. This is what we were referring to, that we want to get to the bottom of it; which has nothing to do with administration politics.

Mr. Speaker, I yield 2 minutes to the gentleman from Dallas, Texas (Mr. Sam JOHNSON), a very distinguished Member and former prisoner of war for 7 long years, and a great American.

Mr. SAM JOHNSON of Texas. Mr. Speaker, according to this administration, the President's trip to China next week marks a new high in U.S.-China relations. I am not sure that is true. The national security of this Nation is at serious risk today due to actions taken by this President and his administration regarding missile technology transfers. It is not a reason for celebration. It is not a high point.

The transfer of U.S. missile technology to China, with the direct approval of the Clinton administration, raises some rather significant questions:

One, why the authority over the waiver program was shifted from State to Commerce; two, why an American company was granted a second launch waiver when it was already being investigated by the Justice Department; three, why the Clinton administration tried to shield China from sanctions; and finally, what military benefit did China gain as a result of that technology transfer?

Mr. Speaker, today we have the opportunity to set up a committee that will search for the honest answers, and I think the honest answers are going to be forthcoming. We have a minority leader and our own majority chairman that are going to get the answers, for our national security is not a partisan issue.

I urge my colleagues to demand the truth and support this resolution today.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. Edwards).

Mr. EDWARDS. Mr. Speaker, following up with my exchange with the chairman of the Committee on Rules, it seems to me that one of the serious subjects of discussion and review of facts for this committee is, what was the role of the Loral Corporation in this process.

The chairman of the Committee on Rules, on the floor of the House in response to my question, referred to Loral's sordid history and its involvement in this process. Once again, I would point out that for a judge, or one of the judges, in this basically being a court case or investigation, to say in the very first remarks that there has been a sordid history of involvement by one of the groups being reviewed by this investigation seems to me to be drawing conclusions before we get the facts. It seems to me to sound more like the Burton committee, which had a chairman that wanted to draw the conclusions before he even had the hearing.

So, in the midst of this discussion, my intent is not to question the motives of the chairman of the Committee on Rules; my intent is to try to start out this process on a bipartisan, objective, fair basis. And I hope the distinguished gentleman would make clear what he means by referring to the "sordid history" of Loral or any others in this case.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to quote from my opening statement. It says, "Beginning in April of this year, the New York Times has focused on 'the somewhat sordid history,'" repeating exactly what they say. The gentleman should read the newspapers.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. TRAFICANT), a very admired Member of the other side of the body, and I wish I had more time to yield to him.

Mr. FROST. Mr. Speaker, I yield 1 minute. The gentleman from Ohio (Mr. TRAFICANT).

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Ohio (Mr. TRAFICANT) is recognized for 2 minutes.

Mr. TRAFICANT. Mr. Speaker, I thought I would just rise to tell it exactly like it is.

Last week North Korea threatened Uncle Sam. I want to quote what North Korea said. They said they will not only continue to build ballistic missiles, but they will sell ballistic missiles to the enemies of Uncle Sam or to whomever they choose. And if Uncle Sam does not like it, they can compensate us for it. They can compensate us; that is unbelievable.

Intelligence sources said North Korea is taking this bold stand because they see the way China and Communists are being treated around the globe, and that there is a weakening of resolve in Washington.

Now, there is nobody that opposed Reagan's economic policies more than I, maybe right or wrong. But one thing about Ronald Reagan, North Korea would have never made that threat to Ronald Reagan. Never. And Ronald Reagan was firm in his resolve about Communists. But if Communist China can get $50-plus billion a year in trade surpluses, get free missile technology, have access to the Lincoln bedroom, why cannot all the other Communists do it? In fact, why cannot communism make a comeback, colleagues?

It is time to question the White House. We have put China on the back page because of Monica. Let me tell my colleagues, the time now is to look at China. What did they do, and did they attempt to influence our national security? I do not think President Clinton sold our country out, but I believe they have been damn casual with China and with Communists.

And I would just like to say that we have had brave military that gave

their lives fighting in foreign wars to defeat communism and to secure America. And I will be damned if I am going to be a part of any situation that is going to weaken or threaten our national security because of some political partisanship here. We should investigate and find the truth, and let the chips fall where they may. Because I will tell my colleagues what, it sounds awfully stinky to me.

Mr. FROST. Mr. Speaker, I would ask about the remaining time.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) has 6 minutes remaining, and the gentleman from New York (Mr. SOLOMON) has 13½ minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Jacksonville, Florida (Mrs. TILLIE FOWLER), a member of the Committee on National Security, who is so very knowledgeable about this issue.

Mrs. FOWLER. Mr. Speaker, I rise in strong support of this resolution. As a member of the House Committee on National Security, I cannot overstate the significance of the mission we are undertaking with the creation of this Select Committee.

More than 1 year ago, the gentleman from Illinois (Mr. HENRY HYDE) and I wrote to the Attorney General, asking her to investigate the loosening of export controls on a host of sensitive dual-use equipment and technology.

We asked the Attorney General to investigate the questionable decision to allow McDonnell Douglas to sell sophisticated machine tools to the PRC. Just last week "60 Minutes" reported that those machines have ended up in a Chinese Silkworm missile plant.

The Loral incident is what has brought us to this point today, and for good reason. According to press reports, the Defense Technology Security Administration concluded that, "United States national security has been harmed." And an April 9th, 1996, Air Force Intelligence report reached a similar conclusion.

Clearly, the questionable actions of both Loral and the administration have serious implications for our national security. But so do the questions surrounding transfers of sophisticated machine tools, supercomputers, hot section technology and telecommunications technology.

The Select Committee we are creating today faces a daunting but critical task. In a nutshell, it must answer the question: Did the United States provide technology to China that will benefit its military? And, if so, why did this administration allow it to happen?

I urge my colleagues to vote "yes" on the resolution so that the American people can find out the answers to these questions.

Mr. Speaker, the letter to the Attorney General referred to earlier is provided for the RECORD as follows:

MAY 22, 1997.

Hon. JANET RENO,
U.S. Department of Justice,
Washington, DC.

DEAR GENERAL RENO: We are writing to request that the Justice Department's investigation of alleged illegal foreign campaign contributions to the Clinton campaign and the Democratic National Committee include an investigation of the possible link between contributions from various Asian donors and the Clinton Administration's loosening of export controls on sensitive dual-use equipment and technology, which has specifically benefited the military and intelligence services of the People's Republic of China (PRC).

The PRC makes no secret of the fact that it is attempting to acquire a diverse, highly flexible, strategically dispersed and survivable military production capability, with force projection a key goal. The administration's pattern of decontrol and failure to enforce existing law with regard to both export procedures and punitive sanctions has substantially benefited the military goals of the People's Republic of China and presented serious new challenges to the security interests of the United States.

In our minds, there are a number of cases that raise serious questions about whether improper outside influence was brought to bear on Administration officials—including the President—and if that influence has resulted in decisions and policies that have liberalized the transfer of defense-related technologies, something which is clearly incompatible with the interest of our nation.

Examples of Questionable Decisions

Sales of sophisticated machine tools to the PRC.—A U.S. company, McDonnell Douglas, was allowed to ship an almost complete intact missile and strategic bomber factory to the PRC, despite strong opposition from specialists at the Department of Defense and evidence that the equipment was going to be diverted to military production facilities. Prior to the issuance of the original export licenses, the case was discussed with concern at the highest levels of the government, yet it was approved in the end.

News stories and a GAO report requested by the House National Security Committee (HNSC) all show that before the equipment was shipped, U.S. officials were aware that the conditions placed upon issuance of the export licenses were unenforceable, and that the Chinese possibly intended to divert the equipment they had purchased for civilian use to a military production facility.

During the period immediately before the sale—and before the export licenses had been approved—McDonnell Douglas officials showed officials from CATIC (China National Aero-Technology Import-Export Corporation) through the plant during operating hours, allowing them to videotape classified production lines in operation—a violation of current export law, which was brought to the attention of Administration officials and ignored.

Finally, once it was determined that the diversion had occurred, political appointees at the Departments of Commerce and Defense approved new licenses with different end-use conditions and destinations rather than expressing displeasure with the Chinese or exercising their legal obligation to sanction the PRC.

While aspects of this case are now under review by a grand jury in the District of Columbia, it is imperative that this matter receive full scrutiny in the context of the Justice Department's investigation of campaign finance improprieties.

Supercomputers.—The extraordinary loosening of controls on militarily-sensitive supercomputers, which began in 1994, has resulted in the sale of 46 supercomputers rated at 2,000 MTOPS and above to China in the last 15 months. According to a former Under Secretary of Defense who testified before the HNSC Procurement Subcommittee, these sales may have given the PRC more supercomputing capacity than the entire Department of Defense. Uses for supercomputers include: design and testing of nuclear weapons; sophisticated weather forecasting; weapons optimization studies crucial for the efficient use of chemical and biological weapons; aerospace design and testing; creating and breaking codes; miniaturizing nuclear weapons, and finding objects on the ocean floor, including submarines.

The decision to loosen U.S. controls on supercomputers was made in spite of the opposition of a number of Defense Department staff experts, senior military and intelligence officials, and Members of Congress. It was justified by a report commissioned and paid for by the Department of Commerce using outside consultants supplied by political appointees at the Department of Defense. The contract for the report was awarded noncompetitively to a well-known opponent of export controls. Viewed in the context of recent revelations about Chinese efforts to influence the U.S. political scene, the significant policy changes that have been pursued in this area bring into question the Administration's motives for decontrol.

Hot Section Technology.—The Administration's decision to change the jurisdiction on so-called "hot section" technology from the Department of State, which had guarded it jealously, to the Department of Commerce, which is in the business of making it easier for foreign entities to purchase U.S. products and technology also raises serious concerns. Hot section technology allows U.S. fighter and bomber aircraft to fly for thousands of hours longer than those produced by less sophisticated manufacturers, providing our military forces with significant cost and readiness advantages over those of other nations. Again, serious questions arise with respect to policy changes in light of Chinese efforts to influence Administration actions.

Telecommunications.—In 1994, sophisticated telecommunications technology was transferred to a U.S.-Chinese joint venture called Hua Mei, in which the Chinese partner is an entity controlled by the Chinese military. This particular transfer included fiber optic communications equipment which is used for high-speed, secure communications over long distances. Also included in the package was advanced encryption software.

Both of these transfers have obvious and significant military applications, and, again, this transfer was accomplished despite opposition from technical experts at the NSA and within the Pentagon.

The administration's actions in the abovementioned cases, and others, have resulted in a significant increase in indigenous Chinese military production capabilities. Given China's willingness to sell weapons and technology to the highest bidder—including rogue nations such as Iran, Iraq, and Libya—these transfers could represent a profound threat to U.S. military personnel. Moreover, the increased capabilities that China has gained portend a regional arms race and increase the possibility of conflict in a region ion which the United States has major interests.

Under the circumstances, if flies in the face of common sense for us to provide the

PRC with the means to achieve their military and strategic goals. The administration's decision seem very suspect to us, and we strongly believe they should be investigated.

In closing, we would note that this letter does not reflect a change in our belief that a special counsel should be appointed to investigate allegations of improper fund-raising and campaign contributions, but rather an acknowledgement of the investigation as it presently exists.

Thank you for your consideration of this request. We look forward to your timely response.

Sincerely,

TILLIE K. FOWLER,
Committee on National Security.
HENRY HYDE,
Chairman, Committee on the Judiciary.

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

Mr. Speaker, I think it is vitally important that this matter be approached on a bipartisan and objective basis. The two people who are involved, the designated chair and the designated ranking minority member, clearly are fair-minded and will proceed in a reasonable and forthright manner. I would urge other Members on the other side of the aisle to give the gentleman from California (Mr. COX) and the gentleman from Washington (Mr. DICKS) the opportunity to conduct a fair and bipartisan examination into these vital questions.

We will support this resolution. We would urge that this investigation be done promptly and fairly and in a bipartisan manner.

Mr. Speaker, I have concluded my remarks. I urge adoption of the resolution.

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

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to, first of all, just concur in exactly what the gentleman from Texas has just said.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. COX) to conclude for the majority. We have heard a lot of praise heaped on this gentleman. I only wish I had his demeanor and his calmness in the way that he approaches measures on this floor. He would make a great Supreme Court Justice some day, as well as a great Congressman.

Mr. COX of California. Mr. Speaker, I certainly thank the chairman of the Committee on Rules for those generous comments and, obviously, all of us being in politics here know that at this point I should sit down, because never will people say nice things like this about me again and I am enjoying the opportunity.

But I want to begin by saying exactly the same kinds of things about my colleagues who have brought us to this point, the threshold of investigating in exactly the right way a very serious matter. In particular, the ranking member on the Permanent Select Committee on Intelligence, the gentleman from Washington (Mr. DICKS), with whom it has been my pleasure to work for the last several days in a very serious and urgent way; and, as well, the minority leader of the House, who made this his priority, exactly as did the Speaker of the House.

As a consequence, I can thank the gentleman from Texas (Mr. FROST), who has conducted the debate on the minority side today, for his recommendation of an "aye" vote. And I can thank my colleagues for what I believe is the collective and considered wisdom of the House in proceeding in this way.

Much of what we will undertake, much of what we will look at in this Select Committee will be secret information, and we will keep it to ourselves. Much of the reason that we are here, frankly, rests upon classified information. But the reason that we are here is also largely a matter of public record, and so what I would like to do now is begin with what is publicly known about why it is important for us to proceed in this way with this Select Committee.

In 1996, the People's Republic of China's Long March rocket, carrying a Loral satellite, exploded shortly after lift-off. It was at least the fifth Long March rocket to fail in the last 7 years. On April 4th, 1998, the New York Times, in a story by Jeff Gerth, first reported that a Federal grand jury was investigating whether, during the investigation of that 1996 launch failure, Loral and Hughes provided any information to the Chinese People's Liberation Army without the necessary State Department approval, and whether such illegal actions may have advanced the Chinese People's Liberation Army nuclear missile capabilities.

According to the April 4 New York Times article, since this proposed export could involve the transfer of the same kind of expertise that prompted the Justice Department to investigate in the first place, some Clinton administration officials claimed that the February waiver undermined the investigation.

□ 1445

The Justice Department made these very concerns known to the White House prior to the February 1998 waiver.

On April 5, 1998, Ronald Ostrow and Jim Mann reported in the Los Angeles Times that missile guidance technology transferred to the People's Liberation Army may have gone beyond China's own nuclear arsenal. They quoted a Defense Department official, who stated, "Guidance for missiles seems to be a critical factor for Iran and North Korea. And they are getting it from China."

On April 13, the New York Times reported further that in May 1997, the Pentagon issued a classified report which concluded that Loral and Hughes provided information that "significantly improved China's nuclear missile capabilities."

The New York Times reported on May 15, 1998, that a Chinese military officer, Lieutenant Colonel Liu Chao-Ying, funneled nearly $300,000 to Democratic fund-raiser Johnny Chung. Lieutenant Colonel Liu is an officer of China Aerospace, a state-owned company directly involved in China's satellite launching program. Lieutenant Colonel Liu was previously an officer of China Great Wall Industries, the manufacturers and sellers of M–11 missiles components to Pakistan.

On May 23, the New York Times reported that on February 18, 1998, while the Justice Department investigation of Loral was ongoing, President Clinton issued another waiver for Loral to export a satellite to China.

On June 1, 1998, the New York Times reported that the State Department also advised the White House prior to the February 1998 waiver that Loral's actions in 1996 appeared to be "criminal" and "knowing" and that U.S. law might prohibit satellite exports to the People's Republic of China in any event due to the PRC's transfer of missile technology to Iran.

The June 1 article also reported that the administration was aware of the Defense Department's concerns over possibly aiding the People's Liberation Army's nuclear missile program, citing a February 12 memorandum to the President from National Security Adviser Samuel Berger.

Also, according to the June 1 article, and again citing internal White House and State Department memoranda, National Security Adviser Berger and the President were made aware of the fact that Loral stood to lose the contract and to incur a financial penalty if the waiver were not granted soon.

The waiver was issued shortly after the supposed deadline. The launch project was kept on schedule for November 1998, and Loral did not incur any penalties from the Communist Chinese Government.

The press has also reported that the CEO of Loral, Bernard Schwartz, has become a close personal friend of the President and was the largest single donor to the Democratic Party in 1996.

On June 10, the General Accounting Office testified before the Senate Intelligence Committee that President Clinton's March 14, 1996, decision to transfer ultimate control of satellite exports from the State Department to the Commerce Department diminished the ability of the Defense Department to block satellite exports for national security reasons.

Until that 1996 decision by the President, the Department of Defense was routinely deferred to by the Department of State and national security

was paramount when waivers were sought. Now, however, the Commerce Department, whose mission it is to promote exports, is the agency in control.

In testimony before the House Committee on National Security in November of 1997, Commerce Department official William Reinsch acknowledged that while some 47 supercomputers have been sold to the People's Republic of China, the United States Government was unaware of their whereabouts. These supercomputers may be used for, among other purposes, simulating testing of nuclear weapons.

60 minutes, on CBS, reported on June 7, 1998, that the People's Liberation Army illegally diverted enormous McDonnell Douglas aeronautics machine tools, approaching the length of a football field, for use in People's Liberation Army military aircraft production. McDonnell Douglas is now the subject of a grand jury investigation of the diversion.

All of these media reports give rise to a number of unanswered questions that will be the object of the Select Committee's focus. There is no more important question before the Select Committee than the one with which we will begin. "Has the reliability or accuracy of nuclear missiles in the arsenal of the People's Liberation Army been enhanced; and, if so, how did this happen?"

I agree with all those who have spoken that this Select Committee is the most effective means to inquire into these matters. There are some 8 committees of the House of Representatives, with nearly 300 members, that properly have jurisdiction over these committees. Consolidating this investigation into a Select Committee whose members have been chosen by the Speaker of the House and by the minority leader, who are expert in the matter, who can consult collegially with one another, and who can maintain discretion and confidentiality, will reflect credit upon this House.

I urge my colleagues to support this resolution, to support the creation of the Select Committee, and to answer this serious question in the serious manner that it deserves.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman from New York for yielding.

I rise in strong support of this measure to establish a Select Committee on U.S. National Security and Military/Commercial Concerns of the People's Republic of China. I commend the gentleman from California (Mr. COX) for his statement.

I want my colleagues to know, we have just concluded 2 days of extensive hearings on this measure, which underscores the importance of moving ahead with the Select Committee. I urge my colleagues to support the measure.

Mr. Speaker, I want to thank the gentleman from New York, Mr. SOLOMON, for allowing me the opportunity to provide my views on the establishment of a Select Committee to examine U.S. policy regarding the transfer of U.S. satellites to China.

I strongly support the creation of this Select Committee. The Committee, headed by the able gentleman from California, Mr. COX, will be well-positioned to examine not only such issues, as whether American satellite companies divulged militarily-sensitive technology enabling China to improve its ballistic missiles.

The Committee will also be able to engage major policy issues, including whether our national security has been jeopardized by this Administration's policy of placing commercial interests above national security interests in granting licenses and national interest waivers for the export of commercial communication satellites to China.

In the 1992 Presidential campaign, Governor Clinton attacked President Bush for "coddling dictators" including those who ordered the massacre of pro-democracy demonstrators at Tiananmen Square.

Who could have imagined then that President Clinton's Administration would face questions about compromising our national security at the hands of those same Chinese leaders.

Yet, in May of 1997 a highly classified Pentagon report has reportedly concluded that scientists from two leading American satellite companies, Loral Space and Communications and Hughes Engineering, provided expertise that significantly improved the guidance and reliability of China's ballistic missiles.

Moreover, documents released by the White House disclose that the Justice Department had concerns about issuing a waiver in February 1998 for the export of a Loral satellite, and the Clinton Administration knew it. Accordingly to a memo prepared for the President by his National Security Advisor, Justice "has cautioned that a national interest waiver in this case could have a significant adverse impact on any prosecution that might take place * * *"

Despite this, the President decided to grant Loral a waiver for the export of a satellite to China.

I am concerned that in its desire to promote the commercial interests of key U.S. companies, the Administration may have undercut its own efforts to limit the spread of missile technology to China, which today is the world's leading exporter of weapons of mass destruction.

The Administration has insisted, that nothing untoward has occurred, that no inappropriate decisions or actions have been taken that resulted in harm to U.S. national security.

We will look to this proposed Select Committee to examine these issues and look forward to its conclusions and recommendations. Accordingly, I urge Members of the House to support the establishment of this important panel.

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

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 476, the previous question is ordered on the resolution, as amended.

The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER (during the voting). The Chair will remind Members that it is their responsibility to be in the Chamber when a vote is underway.

The vote was taken by electronic device, and there were—yeas 409, nays 10, not voting 14, as follows:

[Roll No. 245]

YEAS—409

Abercrombie	Clay	Frelinghuysen
Ackerman	Clyburn	Frost
Aderholt	Coble	Gallegly
Allen	Coburn	Ganske
Andrews	Collins	Gejdenson
Archer	Combest	Gekas
Armey	Condit	Gephardt
Bachus	Cook	Gibbons
Baesler	Costello	Gilchrest
Baker	Cox	Gillmor
Baldacci	Coyne	Gilman
Ballenger	Cramer	Goode
Barcia	Crane	Goodlatte
Barr	Crapo	Goodling
Barrett (NE)	Cubin	Gordon
Barrett (WI)	Cummings	Goss
Bartlett	Cunningham	Graham
Barton	Danner	Granger
Bass	Davis (FL)	Greenwood
Bateman	Davis (IL)	Gutierrez
Becerra	Davis (VA)	Hall (OH)
Bentsen	Deal	Hall (TX)
Bereuter	DeFazio	Hamilton
Berman	DeGette	Hansen
Berry	Delahunt	Harman
Bilbray	DeLauro	Hastert
Bilirakis	DeLay	Hastings (WA)
Bishop	Deutsch	Hayworth
Blagojevich	Diaz-Balart	Hefley
Bliley	Dickey	Hefner
Blumenauer	Dicks	Herger
Blunt	Dingell	Hill
Boehlert	Dixon	Hilleary
Boehner	Doggett	Hilliard
Bonilla	Dooley	Hinchey
Bonior	Doolittle	Hinojosa
Bono	Doyle	Hobson
Borski	Dreier	Hoekstra
Boswell	Duncan	Holden
Boucher	Dunn	Hooley
Boyd	Edwards	Horn
Brady (PA)	Ehlers	Hostettler
Brady (TX)	Ehrlich	Hoyer
Brown (CA)	Emerson	Hulshof
Brown (FL)	Engel	Hunter
Brown (OH)	English	Hutchinson
Bryant	Ensign	Hyde
Bunning	Eshoo	Inglis
Burr	Etheridge	Istook
Burton	Evans	Jackson (IL)
Buyer	Everett	Jackson-Lee (TX)
Callahan	Ewing	Jefferson
Calvert	Farr	Jenkins
Camp	Fattah	John
Campbell	Fawell	Johnson (CT)
Canady	Fazio	Johnson (WI)
Cannon	Filner	Johnson, E. B.
Capps	Foley	Johnson, Sam
Cardin	Forbes	Jones
Carson	Ford	Kaptur
Castle	Fossella	Kasich
Chabot	Fowler	Kelly
Chambliss	Fox	Kennedy (MA)
Chenoweth	Frank (MA)	Kennedy (RI)
Christensen	Franks (NJ)	

Kennelly	Neumann	Sessions
Kildee	Ney	Shadegg
Kilpatrick	Northup	Shaw
Kim	Norwood	Shays
Kind (WI)	Nussle	Sherman
King (NY)	Obey	Shimkus
Kingston	Olver	Shuster
Kleczka	Ortiz	Sisisky
Klink	Owens	Skaggs
Klug	Oxley	Skeen
Knollenberg	Packard	Skelton
Kolbe	Pallone	Slaughter
Kucinich	Pappas	Smith (MI)
LaFalce	Parker	Smith (NJ)
LaHood	Pascrell	Smith (OR)
Lampson	Pastor	Smith (TX)
Lantos	Paul	Smith, Adam
Largent	Paxon	Smith, Linda
Latham	Payne	Snowbarger
LaTourette	Pease	Snyder
Lazio	Pelosi	Solomon
Leach	Peterson (MN)	Souder
Lee	Peterson (PA)	Spence
Levin	Petri	Spratt
Lewis (CA)	Pickering	Stabenow
Lewis (KY)	Pickett	Stark
Linder	Pitts	Stearns
Lipinski	Pombo	Stenholm
Livingston	Pomeroy	Stokes
LoBiondo	Porter	Strickland
Lofgren	Portman	Stump
Lowey	Poshard	Stupak
Lucas	Price (NC)	Sununu
Luther	Pryce (OH)	Talent
Maloney (CT)	Quinn	Tanner
Maloney (NY)	Radanovich	Tauscher
Manton	Rahall	Tauzin
Manzullo	Ramstad	Taylor (MS)
Markey	Rangel	Taylor (NC)
Mascara	Redmond	Thomas
Matsui	Regula	Thompson
McCarthy (MO)	Reyes	Thornberry
McCarthy (NY)	Riggs	Thune
McCollum	Riley	Thurman
McCrery	Rivers	Tiahrt
McDade	Rodriguez	Tierney
McGovern	Roemer	Traficant
McHale	Rogan	Turner
McHugh	Rogers	Upton
McInnis	Rohrabacher	Velázquez
McIntosh	Ros-Lehtinen	Vento
McIntyre	Rothman	Visclosky
McKeon	Roukema	Walsh
McKinney	Roybal-Allard	Wamp
Meehan	Royce	Waters
Meek (FL)	Rush	Watkins
Meeks (NY)	Ryun	Watt (NC)
Menendez	Sabo	Watts (OK)
Metcalf	Salmon	Waxman
Mica	Sanchez	Weldon (PA)
Millender-McDonald	Sanders	Weller
Miller (CA)	Sandlin	Wexler
Miller (FL)	Sanford	Weygand
Minge	Sawyer	White
Mink	Saxton	Whitfield
Moran (KS)	Scarborough	Wicker
Moran (VA)	Schaefer, Dan	Wise
Morella	Schaffer, Bob	Wolf
Myrick	Schumer	Woolsey
Neal	Scott	Wynn
Nethercutt	Sensenbrenner	Young (AK)
	Serrano	Young (FL)

NAYS—10

Conyers	McDermott	Oberstar
Furse	Mollohan	Yates
Kanjorski	Murtha	
Lewis (GA)	Nadler	

NOT VOTING—14

Clayton	Gutknecht	Moakley
Clement	Hastings (FL)	Torres
Cooksey	Houghton	Towns
Gonzalez	Martinez	Weldon (FL)
Green	McNulty	

□ 1511

Mr. OBERSTAR, Mr. NADLER and Ms. FURSE changed their vote from "yea" to "nay."

Ms. CARSON changed her vote from "nay" to "yea."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 458 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 458

Resolved, That during further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, in the Committee of the Whole House on the State of the Union pursuant to House Resolution 442, all points of order against each amendment printed in the report of the Committee on Rules accompanying this resolution are waived if the amendment is offered by a Member designated in the report. An amendment so offered shall be considered as read.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

□ 1515

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

Mr. Speaker, this is the second resolution defining the rules of debate for the campaign finance bill, and it fulfills the promise made by the Speaker for a full and open debate on campaign finance reform. House Resolution 458 provides for the further consideration of H.R. 2183, the Bipartisan Campaign Integrity Act. The rule makes in order amendments printed in the Committee on Rules report accompanying this resolution to be offered by the Member designated in the report. The rule also waives all points of order against those amendments and provides that they shall be considered as read.

I do want to mention that the second rule identifies a certain subset of possible perfecting amendments, those printed in the accompanying report of the Committee on Rules. For those amendments the second rule waives all points of order, thereby partially superseding the terms of the first rule, H. Res. 442.

Mr. Speaker, by way of review, the House passed the rule in late May that provided for general debate in consideration not only of the constitutional amendment but also provided for the consideration of 11 amendments in the nature of a substitute with a bipartisan freshman reform bill serving as the base text. That rule allowed for the consideration of any germane amendment to the 11 substitutes to reform our campaign finance laws. Today in order to allow for consideration of as many amendments as possible this second rule makes in order every amendment submitted to the Committee on Rules.

Mr. Speaker, we cannot ask for a more fair and open amending process. The debate rules will ensure the most open debate process in the history of campaign finance reform, as was promised by Speaker GINGRICH and the Republican majority. Unfortunately the Democrat opponents of open debate promised to close down the process, allow consideration of only one bill and foreclose all other opinions on this subject. Democrats will ironically ask for closed rules or procedures that they used for 40 years to subvert popular legislation and undermine open debate, and, in addition, a recent Washington Post editorial expressed its distress that the open process may actually permit the substitute that has the most support to win. I find it interesting that wide open rules are now considered shams when the Democrats are not getting their way.

Let us review the history of campaign finance. When it came time to reform these laws the old Democrat Committee on Rules muzzled the minority and forced a closed rule upon us. Not only were we allowed to offer only one amendment to the entire bill, but the Democrats refused to allow us the basic right to offer a motion to recommit with instructions. This was not an isolated incident, but rather a pattern of suppressed debate on this issue in Democrat Congresses. In the 102nd Congress Democrats again stifled open and free debate with a similarly closed gag rule.

Mr. Speaker, rather than suppress debate, the Republican Congress has offered a wide open rule. Only weeks ago leading proponents of campaign finance reform were celebrating. Now apparently they only want to debate their own proposals. It is not enough that they want us to pass laws to limit and regulate political expression and free speech, but they also want to limit it and restrict free speech here in the House when we debate and consider these bills.

Up in the Committee on Rules we listened to testimony from Members requesting that we make their amendments in order. What did we do? We

granted their requests and made their amendments in order. Now it strikes me as rather disingenuous and somewhat hypocritical for Members to submit these amendments to the Committee on Rules and then oppose the rule after we made their amendments in order. I have concluded that many Members on the other side of the aisle have decided that they just do not want to vote on some particular amendments. We are going to have a vote on banning contributions from noncitizens, prohibiting fund-raising on Federal property, prohibiting solicitation to obtain access to the White House or Air Force One and establishing penalties for violating the prohibition against foreign contributions.

While I understand why the Democrats would not want to vote on these issues, each of these amendments deserves consideration. This rule allows us to debate these important issues.

Mr. Speaker, I do not think we need a massive overhaul of our campaign finance laws, but I do have concerns about campaign financing. These concerns are about illegal money from the People's Liberation Army, illegal campaigning in Federal property and illegal campaign donations from Buddhist monks. We have laws that prevent that already, and I believe it would be more useful if we can get some kind of assurance that the current laws that we have on the books are going to be honored. These new campaign proposals will do nothing to stop the kind of shameless disregard for that law that we saw in 1996.

Mr. Speaker, let us enforce the current laws, and if it is necessary to consider more campaign legislation, let us have an open process that allows for a full debate on all pertinent issues. This rule provides for that kind of open debate.

I urge my colleagues to support the rules so we may proceed with consideration of each of the substitute campaign finance reform bills and any amendment which is offered.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I appreciate the gentleman yielding, and I would like to make a statement before the body.

I have had the opportunity to discuss this work with so many interested Members, and indeed there are a great many interested Members. I am particularly responding here relating to the discussions I had with the gentleman from Connecticut (Mr. SHAYS), the gentleman from Alabama (Mr. HUTCHINSON) and the gentleman from Texas (Mr. BRADY) and discussions with members on the leadership, including the gentleman from Texas (Mr. DELAY) and others, and I want to give the body every assurance that while, one, we appreciate the cooperation and interest everyone has in this bill, they should be assured that this bill will be completed.

Proceedings on this bill in this House will be completed in their entirety by the August recess, and I would implore all Members of the body to be willing to work with the floor managers. We will make the time available. Work with the floor managers, restrain yourselves from deleterious taxes, let us keep our attention on this bill. We will make ample time available, and we will be done with House proceedings on this bill by the August recess with a good spirit of cooperation by all interested parties.

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

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

My friend from Texas is leaving the Chamber. He has just committed that we will complete consideration 7 weeks from today. If I understand what he just said, 7 weeks from today.

Mr. Speaker, if the first campaign finance reform rule reported from the Committee on Rules were not proof enough, I bring to my colleagues' attention rule No. 2. This rule is proof positive that the Republican leadership has absolutely no intention of letting Members of the House decide if we do or do not want campaign finance reform this year. This rule assures that the House will never be able to come to a conclusion on this issue despite the assurances of the majority leader that we will do it in the next 7 weeks.

In the name of free and open debate the Republican leadership has perverted the process into a cynical exercise. That is fine, Mr. Speaker, just as long as everyone understands what is happening here. As my colleagues know, Mr. Speaker, when I was first learning about rules and procedure in the House, I was told the story of how one European parliament was never able to reach a decision because it did not have the parliamentary device of the previous question. It was unable to end debate, and consequently that parliament failed in its attempt to do its business. It seems to me that this rule puts this body at the dawn of the new millennium in the same boat as was that parliament. We will be unable to reach a decision.

In other words, Mr. Speaker, the Republican leadership is living up to its promise that the House will consider campaign reform, campaign finance reform, but they are doing that by assuring that the House will consider campaign finance reform a very, very, very long time, and that if we should by chance finish this legislation 7 weeks from now, of course it will be so late in the session that it will be impossible for the other body to act.

No longer will the Senate be able to lay sole claim to ownership of the filibuster. The Republican leadership has devised a new and original form of filibuster which we will all be able to participate in over the course of the next 7 weeks at a very minimum. If we awarded points around here for originality, the Republican leadership would certainly rate a 10.

But that is not all, Mr. Speaker. The amendments made in order by this rule are totally nongermane to the issue of reforming the campaign finance laws in this country. Let me give my colleagues just a sample of the amendments made in order in the name of free and open debate.

First, an amendment which would require unions to report their financial activities by functional category and which would require those reports to be posted on the Internet. Or how about this amendment that would require the President to post on the Internet the name of any passenger on Air Force One or Air Force Two within 30 days of the flight.

The rule makes in order many other amendments, but can someone please tell me what this amendment has to do with campaign finance reform? The rule entitles the gentleman from Virginia (Mr. GOODLATTE) to offer an amendment to each and every substitute which seeks to repeal motor voter. The point is, Mr. Speaker, this rule, like the first campaign finance rule, is specifically designed to ensure that the House will never get a clean up or down vote on Shays-Meehan. We will go through the futile exercise of amending 11 substitutes that are germane and 258 nongermane amendments, and only then, after we go through the entire process, will we be able to determine if there is in fact a winner. Quite frankly, Mr. Speaker, this process does not allow for a winner. It makes us all losers.

The Republican leadership has kept its promise to allow debate on campaign finance reform, but this process is too clever by half. This is a ruse, and none of us should forget it for a moment.

In order that the House might have the opportunity to actually reach a decision it is my intention to oppose the previous question on this resolution. Then, Mr. Speaker, should the House defeat the previous question, it will be my intention to offer a rule which mirrors the rule proposed in the original discharge petition on campaign finance. That rule, of course, was designed to allow the House to actually reach an end to the debate on the question of campaign finance reform. The substitute rule will allow for 1 hour of debate on each of 11 substitutes. It will allow the House to choose under a most-votes win procedure which of the substitutes is a preferred vehicle for further amendment. Once the House makes that choice, there would be 10 hours to consider germane amendments. The rule I propose, Mr. Speaker,

would place a reasonable time frame of consideration of campaign finance reform.

That being said, Mr. Speaker, I would urge every Member of the House to oppose the previous question and to support the rule which I will offer.

In any case, Mr. Speaker, I would like to take this opportunity to notice my intention to support an important germane amendment to the Shays-Meehan substitute. As Members who have studied the history of campaign financing are aware, when the Supreme Court handed down its decision in Buckley v. Valeo in 1976, it struck down one of the four essential pillars of the campaign legislation passed by the Congress and, as a result, left an unbalanced and unstable package standing. Because the entire act was designed to be a package, when the Court struck down one part, the campaign finance laws were left without an essential component which had been envisioned as critical to making those reforms work.

Therefore, it is my strong belief that if we are going to create new campaign finance laws, it is critically important that any legislation should include a nonseverability clause so that the entire package will stand or fall even if one component might later be struck down by the courts. Should this happen, Mr. Speaker, without a nonseverability clause, we will be right back where we are today.

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

□ 1350

Mr. LINDER. Mr. Speaker, I would just like to take a moment to point out that the gentleman who just spoke is supporting all kinds of campaign finance reform except that which would include regulating labor union contributions from whom he received $427,000 in the last campaign cycle.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DELAY), the majority whip of the House.

Mr. DELAY. Mr. Speaker, I rise in support of this rule, and I urge my colleagues to vote for an open and honest debate.

Mr. Speaker, my response to the gentleman from Texas who just spoke is, what chutzpa. What chutzpa. The gentleman is now against the rule after calling for open and honest debate, because this rule does not reflect exactly the way that he wants the rule to reflect; therefore, we need an open and honest debate.

Let me put this into perspective. After the last election, the Clinton administration violated campaign laws. Most people understand that, most people have seen it, using the Air Force One, Lincoln bedroom, raising money on telephones, going to temples, all of these kinds of things. In order to cover that, his party decided to call for campaign finance reform and have, for now well over a year, wanting open and honest debate right down here on the floor in this well.

They have called for open and honest debate. They want open and honest debate. Well, this rule grants us the opportunity to have that full and complete debate on the state of our campaign laws.

We feel that we ought to look at more than just limiting free speech, as the minority wants to do, but we ought to look at all of our campaign laws, those that have been broken, those that have the potential to be broken; look at everything about a campaign, not just finances.

Some of my colleagues are now complaining, complaining that the debate will be too open, too comprehensive, too complete. Well, when we first announced that we would have an open rule, some of these colleagues were exuberant. The gentleman from Maine (Mr. ALLEN) on the other side of the aisle said, this is great, this is exciting, after he learned that we would bring an open rule to the floor. My friend, the gentleman from Connecticut (Mr. SHAYS) said it was a great day for democracy. Fred Wertheimer, Fred Wertheimer of Common Cause said it was a real breakthrough. But now the so-called reformers are complaining because this debate will be too open for their taste.

Well, apparently, the only kind of open debate they want is the debate on their proposals. In their minds, the only reforms worth real discussion are their reforms.

Well, I think this attitude is typical of the wider debate. The reformers believe that the campaign system is so corrupt, so broken that government has to step in and regulate political expression and freedom of speech. They are so convinced of the morality of their own position that they refuse to entertain other ideas of true reform. Today they want to limit debate on their own proposals, rather than open it up to the free market of ideas. And this rule allows that free market of ideas to work on this floor. I am looking forward to it.

Now, in my view, the real reason we are having this debate at all is because of the abuses of the Clinton campaign in this last election. The administration wants to change the subject. They remind me of the boy who killed both of his parents and then begged for mercy because he was an orphan. The Clinton campaign brazenly broke the campaign laws, and then begged for mercy, claiming the campaign system was broken.

We need to have debate on these laws that were broken. We need to have a better understanding of why we are here today so that we can better understand where we are headed.

So I urge my colleagues to support and vote for the previous question and vote for this rule so that we can get to the debate.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Speaker, 3 years ago Speaker Gingrich and President Clinton shook hands on national television, promising to tackle campaign finance reform and to restore the American people's faith in our electoral system. Since that time, the Republican leadership has done everything in their power to block campaign finance reform and to keep the spigots of special interest money flowing.

First, the Speaker and the Republican leadership simply tried to ignore the promise that they made to the public. Apparently, a man's handshake does not mean what it used to.

Next, under mounting public pressure, the Republican leadership tried to fool the American people with so-called reform that they rushed through without debate, and then virtually every major newspaper and public interest group called this maneuver a sham.

Finally, after a discharge petition threatening to force a full and an open debate on campaign finance reform, the Republican leadership devised a new strategy to kill it, and that is the process we are in now. It is called "Death By Amendment." That is right. Instead of allowing a clean vote on a bipartisan Meehan-Shays bill, they are trying to amend it to death with irrelevant riders and killer provisions.

We say, well, how many amendments? Mr. Speaker, 258 amendments. That is right. The Republican leadership has crafted a rule permitting 258 amendments to divide, to derail, to destroy any possibility of substantive, bipartisan reform.

A lot of these amendments do not even have anything to do with campaign finance reform. They are poison pills. They are what we call booby traps, and each of these amendments, if adopted, could open a floodgate of new amendments. These amendments are the legislative equivalent of a ball and chain designed to cripple campaign reform so that they can push it overboard and watch it sink.

The Los Angeles Times calls this Republican strategy a dirty ploy. The New York Times calls it GOP trickery. I call it shameful. Polls in this country show that 90 percent of Americans think our campaign finance system needs fundamental change or to be completely rebuilt. But the Speaker has said that the problem with our political system is not the lack of reform, but that we do not spend enough money, we do not spend enough money on campaigns.

Mr. Speaker, Americans do not want more special interest money in elections; they want less. And they are tired of seeing campaigns that cost tens of millions of dollars. They are

tired of seeing their TV sets flooded with nasty attack ads, and they are tired of outsiders turning their communities into war zones where special interest groups launch air wars that drown out local candidates, local issues, and the voices of individual voters.

Mr. Speaker, the American people want campaign finance reform. Why do you not honor, why do you not honor that handshake?

Today I call on you and the rest of the Republican leadership to stop the cynical charade. Americans want real reform, no more talk, and they want it now. They do not want it in 7 weeks, they do not want it on a promise. We have heard those promises before. I say to the majority leader, we have heard those promises over the last 3 years. Three years after your handshake, the time has come. Not for the strategies of "do little, delay, death by amendment," but a strategy of real reform. Let this House have a clean vote on a bipartisan Meehan-Shays bill and let us start to clean up America's political campaign finance system.

Mr. Speaker, I urge my colleagues to vote "no" on the previous question, "no" on the rule. We need to go back to the process established on the discharge petition with an up-or-down vote on reform and time limits on amendments.

I see the gentleman from Georgia (Mr. LINDER), the king of raising money in this institution, as well as my friend from Texas (Mr. DELAY); and he is going to get up and he is going to suggest to those in the public that we have been receiving campaign contributions. All of us have. Every one of us has. The question is, how are we going to reform it now? We stand ready. They do not. That is the difference. Let us get on with reform.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. MCINNIS), my colleague on the Committee on Rules.

Mr. MCINNIS. Mr. Speaker, I am amazed at the statement that the gentleman from Michigan makes. He talks about the spigots of special money flowing. That is a quote from the gentleman from Michigan.

The gentleman from Michigan takes 57 percent of his money from political action committees, and most of that political action committee money comes from labor unions. Well, guess what? Some of us kind of agree with the gentleman. Maybe there ought to be an amendment that addresses that union money the gentleman gets and that PAC money he gets.

But the gentleman from Michigan, in my opinion, stands in front of all of us and says, hey, what is this open rule? What do you mean, somebody else besides me has amendments? What do you mean, somebody else on this floor may be entitled to their opinion on what this bill should or should not contain? If it is what I agree with, let us have a closed rule. That is the only thing we ought to debate.

But the gentleman is telling me that SCOTT MCINNIS from Colorado wants to prevent contributions in a swap to ride on Air Force One? Why should SCOTT MCINNIS be allowed to offer an amendment on that? I say to the gentleman from Michigan, it is all fine and dandy when the gentleman gets his bill heard, or when he gets his amendment, but I happen to be one of those 270 amendments. In fact, I have several of those 270 amendments, and I think I am as entitled to debate that on this House floor as the gentleman is.

I am more than happy, and I am going to put in the RECORD the amount of money I get. I do not think it is rotten money. I think it is a right to be an American, a right of being an American to contribute to candidates one likes and to contribute against candidates one does not.

Now, obviously the key is disclosure, and I do not mind disclosing every Friday afternoon on the Internet who gave money to me. But do not prevent me from being competitive with the Al Checcis of California. If someone does not like who contributes to me, vote "no," but do not take the money like the gentleman from Michigan and then stand up here and say how horrible that money is.

Mr. Speaker, 57 percent of that money came from political action committees. And yet the gentleman says, and I repeat it, "spigots of special money." Come on. Let us get a debate here.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, look, what is the difference between rule 1 and rule 2? Rule 2 allows nongermane amendments, 258. Why do they want nongermane amendments? That is not the traditional pattern on this floor. Is it to promote free speech? Not for a moment. My colleagues tried earlier to choke campaign reform.

Mr. LINDER. Mr. Speaker, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Georgia.

Mr. LINDER. Is the gentleman seeking a response?

Mr. LEVIN. Yes.

Mr. LINDER. Mr. Speaker, we are allowing nongermane amendments because many Democrats, as well as Republicans, asked for their amendments to be made in order.

Mr. LEVIN. Mr. Speaker, reclaiming my time, I say to the gentleman, I think every Democrat would be glad to withdraw them if the gentleman will withdraw his nongermane amendments. Would the gentleman agree to that?

Mr. LINDER. Mr. Speaker, if the gentleman will yield further, I have the good fortune of not having any amendments.

Mr. LEVIN. Mr. Speaker, will the gentleman agree to that?

Mr. LINDER. Mr. Speaker, I will agree to withdraw any amendments that I was going to propose.

Mr. LEVIN. No, no. Will the gentleman agree to ask all the Republicans to withdraw all their nongermane amendments if we get all Democrats to do that?

No, no, I will take back my time.

The reason the gentleman does not want to do that is because allowing nongermane amendments is a strategy, it is a tactic. At first the gentleman tried to choke campaign reform with a very restrictive rule and attacked it. Some of the gentleman's own Members rebelled with virtually all of us Democrats. So that did not work, and now essentially the gentleman wants to drown it.

I heard last night some of the Republican Members, I say to the gentleman from Georgia (Mr. LINDER) coming up here and talking about left-wing Democrats who want campaign reform, who want Shays-Meehan, like JOHN MCCAIN, that left-wing Democrat. I understand FRED THOMPSON supports it, that left-wing Democrat; the gentleman from Connecticut, CHRIS SHAYS, is he a left-wing Democrat?.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER) for yielding me this time. I appreciate his work on the Committee on Rules in developing this rule.

I support the rule that is before the House today making in order a number of amendments to various campaign finance proposals before us. I have a stake in this fight. There is the freshman bill, the Hutchinson-Allen bill that is before this body is the base bill, and yes, there are many amendments that have been offered even to that base bill.

Mr. Speaker, I believe that it is important for the American public and important for this body that we have an open and fair debate. In the short time that we have engaged in this debate thus far, I think the American public has seen ideas expressed on this floor. I believe it has been an education process. It is helpful for people as they evaluate the direction of our country on this issue.

I want to respond to the minority whip, the gentleman from Michigan (Mr. BONIOR), who talked about promises not being kept. First of all, the propositions that were made by the Speaker were in reference to the Commission bill that a commission be formed. That was voted on yesterday and defeated on the House floor, but the Speaker supported that, even though many Democrats opposed it.

The Republican leadership, I am delighted, have created this rule that is an open and fair debate. Perhaps we all got into this reluctantly, but we are here now; and I am also pleased that a deadline has been set in which we can complete this reform battle, and that we will have a final vote on campaign finance reform on this floor.

□ 1545

I think this is tremendous progress. I am concerned about amendments that are offered, but it is both the Republicans and the Democrats. The Democrats have offered 74 amendments requesting the Committee on Rules to approve those amendments for consideration on this floor. I believe over 20 of them have been offered by the gentleman from Massachusetts (Mr. MEEHAN), the gentleman who has offered one of the campaign reform proposals.

So we all need to withdraw and to restrict the debate, perhaps, in terms of looking at the amendments. Are they substantive? Are they political? Are they making statements? Do they poison the debate?

And I believe we need to complete it sooner than August. We need to complete it by mid-July, and I am asking for support for the rule for this very important debate.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Speaker, I rise in opposition to this second rule on campaign finance reform. As the New York Times editorialized yesterday, "NEWT GINGRICH and other foes have lined the road [to reform] with mines and booby traps."

The Washington Post reported yesterday that "the House leadership continues to mock its promise to allow a clean vote on campaign finance reform."

Mr. Speaker, this rule will result in 250 amendments potentially being offered to the Shays-Meehan bill. It is an attempt, and no one is fooled by this blatant attempt to drown the Shays-Meehan bill by frivolous amendments. Just as anti-reformers in the other body have filibustered the McCain-Feingold bill, it is clear that the defenders of the status quo in the House hope to manipulate the legislative process.

As I listen to the debate and as we prepare for the debate, this going back and forth where they check all the Members' reports and then come out and attack every Member for how much money they raised and where they raised it from, the reality is all that serves to do is undermine the debate.

Why do we not have a nice, clean, honest debate about the need to reduce the role of money in politics? But instead, we are scurrying around doing 1½ minutes' worth of opposition research trying to embarrass any Member of the House who comes to the floor to fight for reform.

This reform legislation which is going to come before the House has nothing to do with the campaign finance reports of any Member of this House. What it has to do with is making soft money illegal. What it has to do with is making the independent expenditures that are polluting campaigns all across America not illegal, but to allow disclosure so people in America know who is funding what in terms of ability to influence elections.

The Shays-Meehan bill is bicameral. It is bipartisan. We deserve an up-or-down vote. We should not have this vote cluttered by 250 amendments.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER) for yielding me this time.

Mr. Speaker, I support the rule. I do not think we can have campaign finance reform outside of the context of election reform. There are certainly those in this House who would like to talk about only one element of what is wrong with our campaigns. This rule allows more than that to happen.

How do we enforce the laws we have? The White House has done a great job since November of 1996 talking about the fact that the reason they violated the laws that we had was because we did not have enough laws. Nobody believes that. The worst thing we can do when people do not obey the rules is create more rules.

Mr. Speaker, if we have teenage children at home and they are not obeying the rules, the last thing we do is say we are going to double the number of rules. We have to debate in this context how we enforce the rules. Enforcing the rules matters. That has to be part of this discussion.

Somebody raised the issue of motor-voter, whether that related to campaign finance reform. We have really made it impossible for local jurisdictions that used to do a good job maintaining the integrity of their voter rolls to do that. Money is spent to turn out votes of people who are not on the voter rolls. That is definitely an election reform, it is a campaign finance reform.

Certainly this rule is an open rule, but it is going to end in 7 weeks. We heard that commitment. This debate is going to go on as we have time for the next 7 weeks. Seven weeks is an important amount of time to talk about the future of the election process in America.

We clearly do not talk about this very often. We are talking now about reforms that were made a quarter of a century ago. We can spend 7 weeks talking about the reforms that are likely to be the reforms for the next quarter of a century. We need this open rule. We need a broad debate. We need this rule. I support it.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the speakers on the other side are, of course, very fast and loose with facts and with innuendo. The White House has never said they violated any campaign law during the last election. The only person convicted of violating the campaign law in the last 2 years is the gentleman from California (Mr. KIM), a Republican Member of this House.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, we are voting here today on a rule. Let us be clear what that rule does. That rule allows over 100 amendments that are nongermane, which means unrelated to the bills we are about to take up.

This is a sham. It is an attempt to defeat the real proposals that are before this House. We have already adopted a rule that allows germane amendments, that means amendments related to the bill, to come up in an unlimited number. So why should we be allowing unrelated amendments now to come up?

And what exactly are the merits that are not being addressed here today in substance, but being addressed in an attempt that drown it in extra amendments? A ban on soft money, those unlimited sums of money that are given both to the Democratic and Republican Party that should cease and which cannot be, in my judgment, rationally defended on the floor of this House.

Secondly, outside interest groups running political ads in congressional districts around the country. Anonymous political advertising. Groups that have maintained that the courts say they have a right to do anonymous political ads. Ridiculous.

These are the merits of the issues. This is what we need to debate. We do not need to adopt a rule that allows unrelated issues exceeding 100 in number to come up and cloud the facts.

Mr. Speaker, we should get to the facts, get to the merits. Ban soft money. Say that anybody that cares to run television commercials in congressional districts around the country must put their names on those ads. People are entitled to know who is at work. Let us defeat the rule.

Mr. LINDER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think it is interesting that the gentleman from Florida (Mr. DAVIS), who just spoke against this rule because it was too open, put out a press release on March 30 of this year where he said, "The Republican leadership has deprived the House of Representatives of a fair debate on cleaning up our campaign finance system.

Instead," he said, "instead the leadership is using a parliamentary maneuver that grossly limits debate and prevents any amendments from being offered."

Well, Mr. Speaker, we are not. We are using a normal procedure to allow any amendment being offered, and now he is offended by that. I wish he would make up his mind.

Mr. Speaker, I point out to the gentleman from Texas (Mr. FROST) when he said the White House has never said they violated any campaign laws that, no, I know that. They have never admitted to anything they have done, nor will they.

But the fact of the matter is, the President did say on tape, with his face showing on the tape, that "We discovered we could raise gobs of money in 50- to $100,000 chunks through this loophole in the law and put it on the air." Now, when a candidate spends over the $70 million money that the taxpayers give him is illegal on its face.

Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Speaker, I really do not understand why the other side would be so surprised that there are so many amendments being offered on these bills. When we have bills that so blatantly trample on constitutional rights, I think those of us on the other side have an obligation to introduce amendments to try to prevent that from happening.

Justice Holmes in a case of *Abrams* v. *U.S.*, 1919, in speaking about political campaigns, said that "The ultimate good desired is better reached by free trade in ideas; that the best test of truth is the power of the thought to get itself accepted in the competition of the marketplace."

Most of these bills introduced drastically diminish the rights and opportunities for individuals who are not candidates to participate in the political system. I have heard some on the other side today say we have to reform the way the candidates receive their money, and yet these bills do not talk about the way candidates receive their money. It talks about the way other people who are not involved in the political system spend their money.

Then we hear so much about special interest. And I have asked many of them what is a special interest, and I never do get an answer. But I finally have come to the conclusion that if someone does not like someone else's views, then that is a special interest. But if they like the views that are talking about, then they are probably good and wise public advocates.

Then we also hear about we have got to know who runs these ads. If we look at these ads on television or radio, there are disclaimers that say who paid for them.

The minority leader recently introduced a constitutional amendment saying we have to change the Constitution if we are going to pass some of these bills. And yet when it came up for a floor vote, only 29 Members voted for it. Yet despite that, some of our colleagues still want a restrictive rule to aid and abet their tampering with our cherished First Amendment rights.

On a subject matter this important, the American people deserve the opportunity to listen to all sides of the debate, even if it is 400 amendments. So what are they afraid of? They are afraid that an open debate will reveal that Federal courts and the Supreme Court have consistently struck down FEC regulations that diminish the speech-crushing provisions of the legislation they are bringing to the floor.

They are also afraid that the American people will realize that their proposal does not address the abuses which occurred during the Clinton-Gore scramble for cash in the 1996 elections. They do not address fund-raising in Buddhist temples. They do not address banning fund-raising in the Lincoln bedroom. They do not address banning making phone calls from the White House. So that is why we need this open rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I take money from working people in this country for my campaign, from teachers, carpenters, electricians, nurses, and I am proud of those dollars from those folks.

Mr. Speaker, I tell my colleagues what I do not do. I do not take tobacco dollars and I do not try to kill tobacco legislation because I am in the pocket of the tobacco companies.

But I will tell my colleagues who is. Today's Washington Post: "GOP Kills McCain Tobacco Bill. The bill's demise was a victory for the Nation's leading cigarette makers who have spent millions lobbying against it, in addition to making substantial contributions to the Republican Party."

POINT OF ORDER

Mr. LINDER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, I would like to inquire as to whether it is in order for the gentlewoman from Connecticut (Ms. DELAURO) to be talking about another subject when we are talking about this rule.

The SPEAKER pro tempore. The debate should be focused.

Ms. DELAURO. Mr. Speaker, this is the campaign finance rule, as I understand.

The SPEAKER pro tempore. The debate must be relevant to the rule.

Ms. DELAURO. Mr. Speaker, campaign finance is relevant to the campaign finance rule.

Mr. Speaker, take a look at the amount of money that tobacco companies have provided to the Republican committees in 1996: $4.5 million. Now, if they want to tell us that they do not hold up legislation because of the money they take from the tobacco lobby, just listen to the words of one of their own.

□ 1600

Linda Smith from Washington State, Wall Street Journal, 2 days ago, she says that she discovered that it was commonplace for the GOP majority to hold up action on bills while milking interested contributors for more campaign contributions. I said, we do that? Is that not extortion?

Let me just say, the America public is very clear on what our Republican colleagues are doing. They have put up this rule which has 258, and it may be 270 according to the gentleman from Colorado, amendments that do not have anything to do and are nongermane to the issue of campaign finance reform.

Americans are not fooled. The New York Times calls their tactics "death by amendment," a filibuster in disguise. The Los Angeles Times calls it a "dirty ploy." Even Republicans admit that they are selling snake oil. The gentleman from Illinois (Mr. LAHOOD) has said, we tried squelching it; now we are going to try talking it to death.

Oppose this rule. Let us have meaningful campaign finance reform.

Mr. LINDER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to me. I wish the gentlewoman from Connecticut would have yielded to me, because I wanted to ask a question.

It is all well and good to point out the contributions; and I appreciate the contributions, although her side claims all these contributions are corrupt. She failed to point out that Ted Sioeng that sells Red Pagoda cigarettes, Chinese cigarettes, gave money to her party and to the President of the United States when he was running for reelection. A little vignette that she failed to bring up.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, last night we had an opportunity to pass real campaign finance reform; and for the fourth time, the GOP leadership pulled it out from beneath us. I am beginning to feel a little bit like Charlie Brown running to kick the ball. Just as he is about to approach the ball, Lucy moves it.

The truth of the matter is, the GOP House leadership knows that if a real campaign finance bill hits the floor, it just might pass, and that scares them, and that is the reason that we have

this convoluted rule, 258 nongermane amendments put in order.

In my entire congressional career, I have had maybe four amendments accepted by the Committee on Rules. Yet, this time, they have accepted 25 on this one issue alone, 25 of my own amendments.

To put it in perspective, in the last Congress, in the second session of the last Congress, 150 amendments were ruled in order. Yet, on this one bill, there are 258 amendments ruled. Rules are meant to guide the Congress toward a decision, not to delay. Vote against the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, leadership is about getting results. This rule that we are about to vote on ensures no leadership. It ensures a lot of talk, but no results. Campaign finance reform is complicated because we have to reform all of the law; we have to do the whole system.

It is ironic that I just heard the GOP leadership get up and say, we do not want to change the law, we just want to have a debate on a few amendments. Yet, yesterday, when my colleagues proposed to the House how we are going to deal with the complicated tax reform, their solution was to throw the whole thing out.

Today, we need to overhaul the system, but we do not have to do it by addressing 258 amendments. We need to have leadership that we have seen this House have before.

Let me show my colleagues what the history of this House is. In the 101st Congress, 1989 and 1990, H.R. 5400 was introduced by our colleague, Al Swift. It went through the House by a vote of 255 to 155. Fifteen Republicans voted yes. The bill was adopted in the Senate.

The 102nd Congress, 1991 and 1992, H.R. 3750 by the gentleman from Connecticut (Mr. GEJDENSON), voted off this floor, passed the House by 273 votes to 156 votes. That bill went on to conference and ended up going to President Bush on May 5, and he vetoed the bill. That bill did everything that all of these amendments are talking about, that all of this debate is talking about. We do not even have that bill as one of the major bills this time.

The 103rd Congress back in 1993–1994, when most of us came here, this passed the House in November 1993 by a vote of 255 to 175, another bill by the gentleman from Connecticut (Mr. GEJDENSON).

The point is that leadership is about getting results. Results are about getting a bill out of this House and a bill that is comprehensive, just like the bills that my colleagues were talking about yesterday for tax reform.

Defeat this rule, bring a substantive bill up, and let us pass that.

Mr. LINDER. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I thank the gentleman from Georgia for yielding to me.

Mr. Speaker, I want to associate myself with the remarks of the gentleman from Kentucky (Mr. WHITFIELD) just a few moments ago and to agree that when we have a proposal of this magnitude, it deserves a lot of discussion. When we have a bill that has such chilling potential limits on free speech and free expression that even the ACLU is horrified by its prospects, then the American people need to have a full and open debate about this issue; and that is what this rule provides.

Several weeks ago, the Committee on Rules passed a rule which outlined the debate for this proposal. It provided for 11 substitutes to the freshman bill. These substitutes include ideas offered by the gentleman from Wisconsin (Mr. OBEY), the gentleman from Massachusetts (Mr. TIERNEY), the gentleman from California (Mr. FARR), and others.

Today, this rule provides for even further important amendments which we believe will improve the proposals. But some of my friends on the other side of the aisle want to quash this debate. The minority leader has said that he will raise Holy Ned in order to defeat this rule.

This should not be about grandstanding. This is about passing a meaningful campaign finance proposal that provides for full and open disclosure. Let's always come back to that—full and open disclosure. Let's let the sunshine in and let the American people decide.

Day after day, my colleagues on the other side of the aisle complain about what they perceive as a stifling of their free speech rights when the Committee on Rules brings anything less than an open rule. What do we hear today? We hear complaints about too much debate. Either they want a free and open dialogue or they want to drive these unconstitutional proposals through this body with little debate. They cannot have it both ways.

The same free speech I am trying to protect today allows Members of the House to come before the people and debate subjects free from government restriction. I look forward to this discourse and believe the American people will not drive a hole through the First Amendment.

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from Georgia (Mr. LINDER) has 6½ minutes remaining.

The gentleman from Texas (Mr. FROST) has 8½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, we will vote on this rule shortly. This rule is designed to delay, continue the delay, and to destroy the ability to have campaign finance reform. It has been said here often that it is death by amendment. That is what is seeking to be done here.

I would hope we would reject this amendment. I would hope we would get on with the debate on the Shays-Meehan bill and the people would keep their eye on the ball.

We all understand exactly where we are today. We are in the middle of a system that the public has lost confidence in. We are in the middle of a campaign financing system in this House and the Senate and many other governmental bodies that is corroding the basis on which we make decisions.

We now see, after taking millions of dollars from the tobacco industry, the Senate kills the tobacco bill. We now see a Member from the State of Washington (Mrs. SMITH) saying that she has witnessed the people extorting or holding back legislation until they can continue to raise money. That is what is taking place. This leadership does not make any decisions until they calculate how in fact the money is taken. Money is considered in the presentation of bills, presentation of amendments.

The design here was, the Speaker shook hands with the President 3 years ago, and now we find ourselves, renounced by the minority leader, that by the August break, we will finish consideration and they will have accomplished their purpose, because they recognize that that leaves little or no time for the Senate to act on this legislation should we pass it.

So they have now kicked us into a new cycle of campaign financing where we see time and again the special interests just larding up Members of Congress, our committees, our campaign committees, the national committees of both parties.

We spend more and more money every year, and fewer and fewer people vote. If Coca-Cola did this, they would throw their board of directors out. If General Motors did this, they would throw their board of directors out. They would ask, what is wrong? What have we done?

We have chased people away from the campaigns. We have chased them away from participation in democracy.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I am proud to be a cosponsor of the freshman bipartisan bill, which is the underlying bill for this debate. I think it is a fair and a balanced approach, and I am eager to debate it.

I think people are starving for debate on this issue for the right reasons, not to divert attention from scandals, not

for election year politics, not to give either party an advantage. I am excited about this debate, and I appreciate the leadership bringing this issue to the floor.

I do not share the concern about 258 amendments. I just finished serving in the Texas Legislature. When we would rewrite important parts of our law such as rewriting public education code, we would routinely have 400 amendments, because we had 400 good ideas and different ideas about what education needs to be. We worked through those amendments. We worked through the days. We worked through the nights. We finished with a good product.

I have found our colleagues have a lot of good ideas on how to reform campaign finance in America, and I want to hear them. I know that some of them, I disagree with. Some give parties an advantage rather than campaign finance reform. But rather than have either party select those amendments in the back rooms, I think they ought to be out front for America to debate, to hear, and to judge, and for the will of the House to prevail with the deadline in place for commitment to finish this bill and finish this debate.

I support this rule and welcome open, honest debate.

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

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) has 6½ minutes remaining. The gentleman from Georgia (Mr. LINDER) has 5 minutes remaining.

Mr. LINDER. Mr. Speaker, does the gentleman from Texas have any more speakers?

Mr. FROST. Mr. Speaker, we have speakers, but they are not present on the floor at this moment, so I would ask the gentleman to proceed.

Mr. LINDER. Mr. Speaker, I would suggest to the gentleman from Texas that he close the debate, because I am prepared to.

Mr. FROST. Mr. Speaker, I am not prepared at this point to yield back the balance of our time. The minority leader is en route to the chamber, and he obviously wants to take part in this debate, and he should be given that opportunity.

I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, the Chair is going to have to determine whether he wants to recess, because we are ready to close the debate.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT), the Democratic leader.

Mr. GEPHARDT. Mr. Speaker, I urge Members to vote against this rule. As I said yesterday on the floor, I think the American people want us to get campaign reform, and they want us to get it in a timely manner so that it can actually get through the rest of the process here in the House, get through the Senate, become a law, and be able to go to the President's desk.

This rule is simply designed to increase the amount of time that we will spend. It is part, I think, of an effort to talk the bill to death. We have all the ability we need to have amendments to all of these different proposals that are germane to these proposals.

If we had a procedure here regularly that said nongermane amendments should be brought, that would be the rules of the House. Those are not the rules of the House. There is no earthly explanation for this rule at this time other than to delay the processing of this bill.

I think there is a bipartisan majority in this house for the Shays-Meehan bill; that is my sense, a bipartisan, bipartisan majority in this House for the Shays-Meehan bill. The only explanation anybody can give for voting for this rule is that they want it to delay this process so that this bill cannot become law this year.

This is not the right thing for the House to do. The American people want and demand a big first step in campaign reform. The Shays-Meehan bill is that.

I commend, again, the Members in the Republican Party who have worked so hard and long to get Shays-Meehan through this House. I commend the Members on our side. This is one of the rare moments maybe in this 2-year period that we have a real bipartisan effort of coming together to solve a major problem that faces the American society. Let us get it done.

Vote against this rule. Let us keep moving. We could have a vote on Shays-Meehan yet this week and get the bill back over to the Senate and get it to the President's desk. Let us vote today for campaign reform. Let us vote against this rule.

Mr. LINDER. Mr. Speaker, I continue to reserve the balance of my time.

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

Mr. Speaker, I urge Members to vote "no" on ordering the previous question. If the previous question is defeated, I will offer an amendment to the rule that will place a reasonable timeframe on consideration of campaign finance reform.

□ 1615

Vote "no" on the previous question.

Mr. Speaker, I submit the following extraneous material for the RECORD:

PREVIOUS QUESTION FOR H. RES. 458-CAMPAIGN FINANCE REFORM

Strike all after the resolving clause and insert the following:

Resolved, That during further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, in the Committee of the Whole House on the state of the Union pursuant to House Resolution 442, each amendment in the nature of a substitute specified in House Report 105–545 shall not be subject to amendment except as specified in section 2 of this resolution.

Sec. 2. (a) It shall be in order to consider the amendment numbered 30 in House Report 105–567 to the amendment in the nature of a substitute numbered 13 by Representative Shays of Connecticut if offered by Representative Maloney of New York or Representative Dingell of Michigan. All points of order against that amendment are waived.

(b) After disposition of the amendments in the nature of a substitute described in the first section of this resolution, the provisions of the bill, or the provisions of the bill as perfected by an amendment in the nature of a substitute finally adopted, shall be considered as an original bill for the purpose of further amendment under the five-minute rule for a period not to exceed 10 hours. Subject to subsection (c) no other amendment to the bill shall be in order except amendments printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII.

(c) It shall not be in order to consider an amendment under subsection (b) carrying a tax or tariff measure. Consideration of each amendment, and amendments thereto, described in subsection (b) shall not exceed one hour.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual:

Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Members who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues:

Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. Speaker, I would further observe the irony of the back-to-back considerations yesterday and today on the floor of this House. I handled the rule yesterday on the question of abolishing the Internal Revenue Code. The majority gave us 1 hour of debate on the question of abolishing the Internal Revenue Code. Now they want to give us 7 weeks of debate on campaign finance reform.

It is obvious the majority does not want to pass campaign finance reform. It is obvious they wanted to pass the bill yesterday abolishing the IRS code. Let us not play games. Let us not pretend that something is happening that is not happening. This is not a procedure that is designed to pass legislation. This is a procedure that is designed to slowly bleed legislation to death. This is a procedure that will take the next 7 weeks with 258 nongermane amendments on top of all the amendments that are germane. This is not a serious procedure and no one should pretend that it is.

There are legitimate differences on what ought to be in campaign finance reform, but the other side has concocted a procedure that they now say will take us until August 7. Now, we have to do all the appropriation bills between that time and now. And if we get to August 7 and this still has not passed and still has not been concluded, then the other side is going to tell us, oh, we have all these Members that have travel plans, we have all these Members that want to go on junkets, get on airplanes and start their vacation, so we just have to let this thing slide on until September. And if it slides until September, then it may get lost as we are doing the continuing resolution and the supplemental appropriation and all those matters.

This is not a serious procedure. My friend the gentleman from Texas (Mr. DELAY) and my friend the gentleman from Georgia (Mr. LINDER) are not serious about this. We all understand that. They say this with a smile on their face. And there is a good reason why there is a smile on their face, because their hands are "like this" behind their back. They do not want this matter to be concluded. And I understand why they do not want it to be concluded. I have some differences of opinion with some of these proposals. But I want to see this brought to a final vote in an orderly way. It is the least we can do for the American public.

Mr. Speaker, we should defeat the previous question. Let us bring order to this. Let us not spend the next 7 weeks debating this legislation, and then maybe we get at the end of the 7 weeks and everybody has to get on an airplane and we cannot quite finish. Vote "no" on the previous question. Let us have a reasonable rule and let us get on to a final vote on campaign finance reform.

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

Mr. LINDER. Mr. Speaker, I yield myself the balance of my time.

This entire debate defies credulity. We have Members releasing press releases in March castigating the Republican majority for closing the rule on debate, and then getting a totally open rule and standing up here opposing the rule because it is too open and allows too many people to make too many amendments.

We had the gentleman from Texas talking about concocting a procedure. Concocting a procedure. This is an open rule. This just says that anyone who has an amendment may be allowed to offer it. This debate begins with the gentleman from Michigan, the minority whip, saying the money spigots are open. The money spigots are open and will remain open under every one of these proposals being debated, because none of them touches the money that unions spend on elections, 99 percent of which goes to Democrats.

A Rutgers University study in the last cycle said that the labor unions spent between $300 and $500 million on politics. That is more money than is spent by the Republican and Democrat parties combined. But they do not want to touch it. That is money that is forcibly taken from the members and spent on candidates that the members may not support.

They do not want to change that. That is money that is not even recorded or reported. They do not want to change that. No, they want to stop money from legal companies or corporations where their shareholders can sell their stock if they do not like what the corporation does. The union member has trouble leaving the union and getting a job. No, those money spigots will remain open because none of these bills touches labor union monies, because that all goes to Democrats.

We then heard from the gentlewoman from Connecticut who wanted to discuss the tobacco issue. I hope she did not embarrass the gentleman from Texas (Mr. FROST), because he took $16,000 in tobacco money in the last several years. But at least he took legal tobacco money from legal American corporations. It appears that the only tobacco money that the gentlewoman from Connecticut appreciates is illegal tobacco money from China, because we know that Ted Sieong, the largest distributor of Chinese cigarettes, or of cigarettes, Red Pagoda, gave huge sums, hundreds of thousands of dollars, to the Democrat party, to the Presidential campaign.

And when we seek to ask him about it, to see if current laws are being violated, if there is current breaking of current laws, the Democrats on the Committee on Government Reform and Oversight march in lockstep, 19 of them, to say, no, we do not want this testimony, we do not want the American people to hear, we do not want any of these people investigated.

We now have 94 people who are under suspicion for illegal activities in campaign fund-raising and campaign contributions who have either left the country, taken the Fifth Amendment, or refused to testify. And when the committee sought to subpoena them, those 19 Democrats marched in lockstep to say, no, we will not allow their testimony to be heard, we will not allow the American people to understand what laws have already been broken.

We know what laws were broken. The gentleman from Texas said that the White House has not admitted to breaking any laws. The White House does not admit to anything. The fact of the matter is this White House has been accused of a lot of things, and at no point did they say they did not do it. They said it has not been proven. They said they have not been charged, there is no evidence, but they do not deny.

And the President himself said on tape, we found a loophole. We used, yes, this bad soft money that they want to abolish. The President used it. And he put it on the air. And he, according to his words, improved his standing in the polls using large sums of soft money illegally.

When the President, when the Presidential candidates take $70 million from the taxpayers, they also are bound by the Federal laws not to spend a penny more. That is precisely what happened with Bob Dole. This President spent that, and what he admits to is $44 million more. No, he has not admitted to doing wrong in front of the public, only on a tape. Only on a videotape.

There is a problem with our campaign finance laws. We have two systems, a Presidential system, where they get $70 million from the taxpayers, report all their spending and spend no more; and we have the congressional system, where we report everything. The Presidential system is one that was broken, and that is not the one being addressed here today.

I urge my colleagues to defeat the previous question and support this rule to get on with the debate.

Mr. DAVIS of Florida. Mr. Speaker, I rise in opposition to this second rule on campaign finance reform. I think it is ridiculous that we are spending this time debating a rule when we could be spending this time debating the merits of the issue—meaningful campaign finance reform and a ban on soft money.

The rule we are currently debating makes in order an unprecedented 258 NON-GERMANE amendments. Amendments that do not relate to the underlying Substitute Amendment. We do not need this rule.

The House has already approved a rule governing debate that provides for a fair and open debate. That rule allows the consideration of an unlimited number of germane amendments. That means, Mr. Speaker, that the amendments offered must relate to the underlying Substitute Amendment. That is a fair process.

This new rule and the huge number of amendments it makes in order is unnecessary. In my opinion, it is also designed to prevent this House from ever completing consideration of campaign finance reform.

Earlier this year, I opposed the Leadership's efforts to limit the debate on this very important issue by bringing up bills under Suspension of the Rules thus prohibiting members from offering amendments. The Leadership responded to member defeat of that proposal by bringing forth a rule which made Bipartisan Campaign Integrity Act (the so-called Freshmen Bill) in order. That rule also made 11 substitute amendments and unlimited germane amendments in order. This Mr. Speaker is a fair and open process, and we already have that rule.

The Rule before us now is not a fair process because it allows non-germane amendments. An outrageous number of them at that.

Mr. Speaker, I urge my colleague to defeat this Rule. Let's put these delay tactics behind us and get on with the real business at hand—meaningful campaign finance reform.

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

The SPEAKER pro tempore (Mr. CALVERT). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 221, nays 194, not voting 18, as follows:

[Roll No. 246]

YEAS—221

Aderholt
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
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
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—18

Archer
Armey
Becerra
Clayton
Cooksey
Gonzalez
Green
Gutknecht
Hastings (FL)
Lewis (GA)
Martinez
McNulty
Parker
Strickland
Sununu
Torres
Towns
Weldon (FL)

□ 1643

Messrs. OBEY, HILLIARD and STOKES changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. CALVERT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 189, not voting 23, as follows:

[Roll No. 247]

AYES—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—189

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—23

Clayton
Cooksey
Danner
Dunn
Gekas
Gonzalez
Green
Gutknecht
Hastings (FL)
Jenkins
Lewis (GA)
Lewis (KY)
Martinez
McNulty
Mink
Parker
Portman
Regula
Schumer
Sununu
Torres
Towns
Weldon (FL)

□ 1652

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 442 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. 2183.

□ 1654

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. CALVERT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, June 17, 1998, the amendment by the gentleman from Washington (Mr. WHITE) and printed in the CONGRESSIONAL RECORD as amendment No. 16 had been disposed of.

It is now in order to debate the subject matter of the amendment printed in the CONGRESSIONAL RECORD as No. 13.

Pursuant to House Resolution 442, the gentleman from Connecticut (Mr. SHAYS) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts (Mr. MEEHAN) be allowed to control half of the time. To my understanding that would be 15 minutes; is that correct?

The CHAIRMAN pro tempore. The gentleman is correct.

Without objection, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) each will control 15 minutes.

There was no objection.

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

Mr. Chairman, it is a distinct honor to present before this Chamber the Meehan-Shays amendment in the nature of a substitute to H.R. 2183.

This substitute provides a soft money ban on both the Federal and State levels for Federal elections; it recognizes that sham issue ads are truly campaign ads and treats them as campaign ads; it codifies the Beck decision; it improves FEC disclosure and enforcement; it provides that unsolicited franked mass mailings be banned 6 months to an election; and it requires that foreign money and money raised on government property is illegal.

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

The CHAIRMAN pro tempore. Does any Member rise in opposition?

Mr. THOMAS. Mr. Chairman, I rise in opposition.

The CHAIRMAN pro tempore. Is the gentleman opposed to the amendment?

Mr. THOMAS. I am opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from California (Mr. THOMAS) is recognized for 30 minutes.

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

Mr. Chairman, first of all, I am pleased that we have begun the process. As part of the structure around here, to be able to get time, you have to be in favor of or opposed to. The fact of the matter is, given the time that I have been involved, which is now two decades, in working on campaign reform, I am frankly, on every one of these bills opposed in part and supportive in part, and I will participate extensively in this process.

My goal will be to try to create an orderly process, one that is comprehensible and in which, to the extent possible, we create periods of time in which what we do is comprehensible to the folk outside as well as those of us who are carrying on the debate.

□ 1700

As the chairman of the committee that has jurisdiction, as I said, I have mixed feelings on a number of these bills because we have been wrestling with the way in which the system might be changed for some time.

What I want to do at the beginning of this debate is to set a tone, not on this particular bill, but on most of the bills that we will be looking at in a general sense because frankly the shadow of the Supreme Court is over us in the process of discussing campaign reform. It is over us because the Court has repeatedly said that the First Amendment is vital and critical, and where Congress steps over the line the Court will correct Congress in making sure that fundamental First Amendment freedoms of expression and assembly are maintained.

But the Court stands over us in another way, because after the Court said that, all I want to know, how come the Court is able to say that. We have three clear independent branches in the Constitution, and nowhere in the Constitution does it say that the Court can tell Congress that what it did was unconstitutional. Nowhere am I aware that the oath of office taken by Members of Congress is somehow inferior to the oath that members of the Supreme Court take.

Now obviously the answer is historically the Supreme Court usurped that power, and it has never been taken away, and so they have the power of judicial review whether it is in the Constitution or not.

But because of the ability of the Court to tell the Congress that, "Perhaps in part you were constitutional and in part you were unconstitutional," it creates a dilemma for us as we debate change in campaign finance laws and the manner in which we conduct our elections.

Mr. Chairman, what I have in front of me is a chart to illustrate the way in which the current law is in fact a product of the Supreme Court. It is not a product of Congress. If my colleagues look at the original Federal Election Campaign Act, there were a number of areas where the Congress acted comprehensively, as we are attempting to do now on a number of these bills. It not only dealt with individual contributions limits, it dealt with spending limits for elections. Congress passed a limit per election. Congress passed a limit on independent expenditures per election. Independent expenditures will come up time and again, both in substitutes, and in amendments being treated in a number of different ways. For those of my colleagues who have not been involved in this process as extensively as some of us, understand that back in the early 1970s the Court said, "Notwithstanding Congress' desire, it's overturned."

If my colleagues look down here in terms of limit on candidates' personal funds, we talk about millionaire candidates and how we have to deal with that. Congress dealt with that, but the Court overturned that portion. And in fact the original structure of the Federal Election Commission was overturned by the Court as well.

My point is that for the last quarter of a century we have been dealing with a law which was not the way the Congress created it. The congressional package was far more comprehensive and rounded, notwithstanding the fact that the Court said portions of it were unconstitutional. Many of the problems we have wrestled with find their basis in the Court picking and choosing a comprehensive plan and not allowing a comprehensive plan to go forward.

A lot of the debate over these substitutes over the next several weeks and even perhaps months will be about how our plan deals with the problem in a comprehensive way. What I am here to tell my colleagues is that if someone tells them their plan deals with the problem in a comprehensive way, but it has a severability clause, it "ain't" going to be comprehensive in all likelihood. It means we will turn the clock back, we will send this legislation out into the world, and in the process of its examination the Court will overturn portions of various bills, and we will be living with a makeshift structure.

We have done that, Mr. Chairman, for the last 25 years. Let us not create the opportunity for doing it again.

And that is why on this particular bill, because it contains a severability clause, and on every comprehensive substitute which contains a severability clause, or is silent, because the Court, if it is silent, can go ahead and chop it up the way it wants to, will offer an amendment which will say that the comprehensive package that the Congress offers stands or falls as a structure.

Now this is not an attempt to destroy the process. It is an attempt to retain Congress' ability to define what the law is. Notwithstanding bipartisan efforts over the last quarter of a century, we have not been able to make adjustments that my colleagues would think would be reasonable and prudent. The Court made its adjustments. We were never able to come back and make ours.

Now what happens if the Court strikes down one of these provisions when there is no severability? Well, we are back here rewriting. But I think that is a far better position to be in than to leave the final product up to the United States Supreme Court.

And so I will offer a severability clause, and I am pleased to tell my colleagues that in a July 1997 publication by the gentleman from Massachusetts (Mr. MEEHAN), notwithstanding the fact that it was in reference to the comment of the gentleman from Texas (Mr. FROST) about a severability clause, and the gentleman from Texas joins me in this effort, I might mention, talked about the advantages of not having severability.

And so, as we begin this process, I want to focus our attention on whatever product it is that Congress generates. If we believe strongly enough, and if the House works its will, we ought to believe strongly enough to make sure that the Court does not get to write the law in the final process. The only way we can guarantee that is to make sure there is no severability clause.

And, as I said, I propose to offer an amendment to each of the major substitutes that has as a provision severability. It is not good. It lets the Supreme Court control us. It lets the Supreme Court write the law as it has done for the last 25 years.

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

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY of Connecticut. Mr. Chairman, I rise in strong support of the Shays-Meehan substitute, and I want to commend my colleague, the gentleman from my home State of Connecticut (Mr. SHAYS) and the gentleman from the neighboring State of Massachusetts (Mr. MEEHAN) for their bipartisan effort to introduce meaningful finance reform here today. No less than the integrity of our election system and the confidence of the American people and their elected officials is at stake here today. Passage of the Shays-Meehan bill will begin to correct the abuses of the current system of financing political campaigns.

The issue is clear, Mr. Chairman. One is either for the Shays-Meehan or against it. Opponents will try and muddy the debate with nongermane amendments. We must remain focused, and we must not be diverted by these amendments. After months of delay it is finally time for action.

Again may I congratulate my colleagues the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their perseverance, for their commitment in bringing this vital piece of legislation to the floor.

Vote no on diversionary amendments and yes on a clean Shays-Meehan.

Mr. SHAYS. Mr. Chairman I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I too rise today in support of the Shays-Meehan substitute to H.R. 2183, the Bipartisan Campaign Integrity Act.

The 1996 presidential campaign has made it unmistakably clear that our election system needs to be reformed. In fact, recent studies and polls indicate that the American public is cynical about our current system of campaign finance. Many believe that the size of the donation is directly related to the amount of access to power. Nonetheless, it has been a long and difficult fight to bring an open legitimate campaign finance debate to the House floor.

In fact, a couple of months ago the future of campaign finance reform was looking very dim. There was a possibility that a real campaign finance reform debate might not have occurred at all.

While the fight to bring in debate to the floor is almost over, the fight to see reform signed into law has just begun. Reformers who want to see changes signed into law must rally around one bill that has the best chance of passing. That bill is a Shays-Meehan substitute which has received strong bipartisan support.

I do not have time to go through all the things that it does, but banning soft money, dealing with the whole issue of redefining issue advocacy laws and, of course, leveling the playing field with wealthy candidates are important steps that need to be looked after.

This bill is not only supported by bipartisan Members in both the House and the Senate, but also by outside groups who represent the will of the American people in this area. It has been endorsed by 35 nonpartisan interest groups, including Common Cause, Public Citizen and the League of Women Voters. Furthermore, the Shays-Meehan substitute is also supported by the Boston Globe, the Los Angeles Times, the New York Times and the Washington Post, some of our more thoughtful newspapers.

As the debate unfolds, my colleagues will see every stop pulled, every method tried and every tactic used by those who oppose real campaign finance reform. One strategy will be to drag out this debate by offering an endless number of amendments until Members lose interest and the public demands that Congress focus on other issues of national priority. Reformers must remember that these tactics are strategies used by those who would defeat campaign finance reform by diverting attention.

Support this legislation. It is the only way to go.

Mr. THOMAS. Mr. Chairman, I yield an initial 7 minutes to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, we are finally here, and I rise in strong opposition, unless my colleagues are surprised, to Shays-Meehan and their bill.

Last week this House defeated a constitutional amendment that was authored by the minority leader, the gentleman from Missouri (Mr. GEPHARDT) that would allow Congress to limit spending for the first time. He got 29 votes. Fifty-one Members of this House voted present, and I do not know about other Members, but I did not come here to vote present. I came here to vote yes or no, to do the people's business.

But there is a lot of shenanigans going on, and all the shenanigans can be put aside because now we are into the meat of the issue.

Now the author of the constitutional amendment, the gentleman from Missouri (Mr. GEPHARDT), said the amendment was necessary because neither Congress or the States have any constitutional authority to limit expenditures, independent issue advocacy or uncoordinated. The current explosion in third-party spending is simply beyond our ability to legislate. This is what the minority leader has said, yet Shays-Meehan does just that. It attempts to legislate control of political spending and political speech, spending and speech that we are told by the minority leader was constitutionally beyond our reach to legislate.

Now the Shays-Meehan bill is nothing short of an attempt to gut the First Amendment in my opinion. It is nothing short than an effort to prohibit our constituents from knowing where we stand on the issues.

Like most of these campaign reform bills, those bills passed by the Democrat majority over the last few years, the Shays-Meehan bill is incumbent protection. It gives the advantage always to the incumbents.

Now what does the Shays-Meehan bill do? Well, the Shays-Meehan bill bans scorecards. That is right, those voter guides that are passed out in churches and in union halls that track how the incumbents vote on critical issues would be subject to a regulation by the speech police and the bureaucrats of the Federal Election Commission.

Shays-Meehan also places a gag rule, a gag rule, on independent expenditures and the ability of citizens to criticize incumbent politicians, a gag rule that the gentleman from Massachusetts (Mr. FRANK) and the minority leader told us that was not permissible in a free society.

And the worst legislative assault that comes in Shays-Meehan attempts to shut down discussion on issues in this country. Mr. Chairman, this bill brings us back to the days when a person placing an ad in a newspaper criticizing the President was hauled into court by the Justice Department. This actually happened in four separate places.

The Shays-Meehan bill would regulate speech even if it avoids the constitutional standard of express advocacy. No one even mentioning the name of a politician can feel safe that he might not have violated a federal law.

□ 1715

That is what is in this bill.

Now, the final attack on freedom in this bill comes in the form of severe government restrictions on the use of soft money by political parties and other organizations, money that is used to get out the vote activities, voter registration, issue advocacy; that is what the soft money is that is so maligned on this floor. The bill also federalizes for the first time State election law.

I want Members on this side of the aisle to listen to this. This bill federalizes State election law.

Now, finally, this bill does nothing about the millions of dollars of forced union dues taken from working people every year and used for political causes they may oppose. Sure, the bill does have a provision that is pretending to enforce the Beck decision, but to take advantage of the Beck decision, workers would have to resign from the union, resign from the union and give up their rights to vote on collective bargaining agreements and other important workplace matters.

So, Mr. Chairman, we have been down this road before. In the early 1970s, the minority has bragged, after passage of a campaign reform bill, the Nixon administration brought a group of dissidents into court for putting an ad in the New York Times calling for the impeachment of the President. What was the charge? The ads were a "sham" and violated campaign laws.

Well, my friends, issue speech, sham or otherwise, cannot be regulated. The Buckley court anticipated these arguments when it said, and I quote,

> It would naively underestimate the ingenuity and resourcefulness of persons and groups, designed to buy influence, to believe that they would have much difficulty devising expenditures that skirted the restriction on express advocacy or election or defeat, but nevertheless benefited the candidate's campaign.

Those who would regulate campaign speech hope, and it is a desperate hope, that the Supreme Court will look at 20 years of election activity since Buckley v. Valeo and decide things differently. But it is more likely that the court will go just the other way, toward my view and those who think that the First Amendment is America's premier political reform, not the Federal Election Campaign Act of 1974.

Mr. Chairman, I would just remind my friends to look around them, just look around. In the past month, in the last 30 days, four, that is right, four Federal courts have struck down campaign speech laws similar to those contained in this bill. Four.

Now, the Supreme Court was emphatic in Buckley that issue advocacy and political speech was at the very

core of the First Amendment. To regulate it in any way is simply unconstitutional and, more importantly, it is wrong.

The true issue here is speech, I say to my colleagues. Will we vote to prevent union members or churchgoers to give information on how an incumbent votes on raising the minimum wage or banning partial-birth abortion? Well, Shays-Meehan does this. Would one vote to gag a citizens' group from buying an advertisement criticizing a Member of Congress? Shays-Meehan does that. Would one vote to blur the line of freedom of the Supreme Court that allows a speech with review by the speech police at the Federal Election Commission? Well, Shays-Meehan does that.

I ask that we oppose Shays-Meehan and let our constituents speak.

Mr. MEEHAN. Mr. Chairman, I yield myself 20 seconds to say that the date that those statements were made by the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Missouri (Mr. GEPHARDT) was February 7, 1997. The Shays-Meehan bill that we are debating today was not even written, nor filed, until March 19, 1998.

Mr. Chairman, before we get into a lengthy debate over the First Amendment implications of spending limits, let me make one thing perfectly clear. The Shays-Meehan bill does not include spending limits.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN) who has worked so closely with us on this bill.

Mr. LEVIN. Mr. Chairman, I would like to respond to the gentleman from Texas (Mr. DELAY), the majority whip.

The Shays-Meehan bill does not gag speech any more than our present limitation on independent expenditures upheld by the court gags. Right now, if somebody comes in with an ad that says, defeat so-and-so, they have to come within the structures set up by Congress. There are limits on what can be contributed, and there are requirements for disclosure.

The question is, if the magic words, which really are not magical, "elect" or "defeat" are not used, should the ad be immune from any limitation as to amount or any disclosure? That is what we are talking about.

What Shays-Meehan says is that we should not provide this loophole. When Buckley was decided, there were not these barrages, these bombardments of so-called issue ads. In the last few years we have had them in torrents. And what the majority is saying is, or some of the majority, is that they want those to go on without any regulation at all.

Now, this is not, therefore, an issue of gagging any more than Buckley gagged free speech. It did not. It balanced our needs for free speech, and I love the First Amendment and voted against efforts a few days ago to undermine it.

The question is, how do we apply it to today's politics? In the decision in the Ninth Circuit, FEC v. Fergatch, here is what the court said.

> We begin with the proposition that express advocacy is not strictly limited to communications using certain key phrases. The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate. A test requiring the magic words, "elect," "support," or their nearly perfect synonyms for a finding of express advocacy would preserve the First Amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act.

What Shays-Meehan tries to do is to protect, to preserve the thrust of that act, and not have the public swamped by undisclosed, unlimited expenditures, especially the last 2 months of a campaign.

Those who are raising the First Amendment are essentially trying to kill campaign reform. They are really hiding behind the First Amendment. They often do not support the First Amendment in other instances.

So I strongly urge support for Shays-Meehan.

Mr. SHAYS. Mr. Chairman, could the Chair inform me as to the time on each side?

The CHAIRMAN. The gentleman from Connecticut (Mr. SHAYS) has 12 minutes; the gentleman from Massachusetts (Mr. MEEHAN) has 10 and three-quarters minutes; and the gentleman from California (Mr. THOMAS) has 15½ minutes.

Mr. SHAYS. Mr. Chairman, I yield myself 20 seconds to point out that in our legislation, the term "express advocacy" does not include a printed communication that prevents information in an educational manner solely about the voting record or position on a campaign issue of two or more candidates. So we specifically provide and allow for voting records to be a part of the system.

Mr. Chairman, I yield 1½ minutes to the gentle and very strong woman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, we have been bogged down by excuses and dilatory tactics trying to get a vote on real campaign finance reform. All the while, our constituents have been looking on with disgust, and soft money contributions have proliferated.

Serving on the Committee on Government Reform and Oversight, I have become more convinced than ever that we must close campaign finance loopholes. Today, we finally have that opportunity to move forward with real reform, with the Shays-Meehan substitute.

This substitute addresses fundamental flaws in our system: the proliferation of soft money and issue ads. It closes the soft money loophole on both the Federal and State levels. Soft money contributions, whether by individuals, labor, corporations, have led to egregious fund-raising practices and to the escalating cost of elections.

This bill also requires that any funds spent by State, district and local political parties for Federal election activity be subject to the Federal Election Campaign Act limits.

Shays-Meehan's issue advocacy reforms will end the takeover of elections by special interest groups, and it will lead to fair and responsible political advertising. It uses a commonsense definition of express advocacy and stipulates that ads that endorse a Federal candidate under its new definition could only be run using legal hard dollars. It also requires FEC reports to be electronically filed and provides for Internet posting of disclosure detail. It clarifies the Pendleton Act's restrictions on fund-raising on Federal property, it codifies the Beck court decision.

Join us in real campaign reform. Prove that we can do it by supporting the Shays-Meehan substitute.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent that the remainder of my time be controlled by the gentleman from California (Mr. DOOLITTLE).

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

There was no objection.

Mr. DOOLITTLE. Mr. Chairman, I yield 5½ minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding me this time.

I first want to compliment the gentleman and my friend from Connecticut (Mr. SHAYS) for his leadership on this issue. I think we probably would not be here today debating campaign finance reform without his hard fight and his commitment to this issue.

For the last year we have worked really on different tracks to accomplish campaign finance reform. We have worked on different tracks because he has advocated what on the Senate side was known as the McCain-Feingold bill and on the House side as the Shays-Meehan bill. A group of freshmen, in a bipartisan fashion, and some of them are sitting in this room, Democrats, Republicans, worked in a different way with a different approach and came up with a different product for campaign finance reform.

So today, as we talk about different approaches to this, I do not support the Shays-Meehan proposal, and I will vote against it because I believe that there is a better way to accomplish campaign finance reform. I say this with the greatest respect, but I believe that it is incumbent upon me to make my case.

Why do I say that the freshman bill is better? Why do I believe that it will

accomplish more significant reform? I believe it is a better vehicle for reform because it is bipartisan, it is constitutional, it does not federalize State elections, it bans soft monies to the Federal parties, and it provides for greater disclosures. But I believe it is a better way, first of all, from a political standpoint that on the Senate side, the United States Senate has already failed to pass McCain-Feingold. They could not break cloture on that bill. So why do we want to send them the exact same bill back again? I believe that if we send them a fresh approach, a new idea, that accomplishes significant reform, that that is the best way to approach it.

Secondly, I believe the freshman bill represents a better idea because the Shays-Meehan approach disregards current Supreme Court decisions in the hope that the Supreme Court will change its opinion. As a lawyer, I have disagreed many times with the Supreme Court, and I wished they would change their opinion; but they are still supreme, and if we want to cast a vote for a bill that is going to be signed into law and a bill that is going to be upheld by the Supreme Court, I believe we have to listen and adhere to the clear decisions that the Supreme Court has given. There is too much at stake.

So the freshman bill, the freshman approach is different. We have drafted a bill that pays attention to what the Supreme Court has said and tries not to violate their constitutional restrictions and infringements upon free speech.

The third reason that I think there is a better way is that issue groups under the Shays-Meehan bill will be subject to source restrictions, donor disclosure, and speech regulation. I think this is a very serious matter. Whether we are talking about the right to life, whether we are talking about the NRA, whether we are talking about the Sierra Club, any issue group that had issue ads in the last election cannot do it the same way in the next election cycle because they would be limited on where they can get their money. Also, if they do their issue ads within 60 days of a campaign, they have to disclose their donors down to the $50 level.

□ 1730

Now, there is a hope that the Supreme Court would approve that, but I believe that that is an infringement upon free speech and the rights of the issue groups to be involved in the campaigns.

The fourth reason that I believe the freshman bill represents a better way is that we do not federalize the State elections by prohibiting contributions that are legal in a State election from being used if a Federal candidate is on the ballot, and that is the current status of the Shays-Meehan approach.

If there is a Federal candidate on the ballot, then money that is legal in the State system cannot be used for get-out-the-vote efforts, cannot be used for the traditional means of party-building efforts. So ours is a more cautious approach.

Finally, I believe that there is a better way because of the approach to how we handle soft money. Under the Shays-Meehan bill, the greatest abuse in the last presidential campaign is not addressed. The greatest abuse in the last presidential campaign was that Federal office holders and candidates were chasing soft money. There was the link that created a problem. All over the country, raising soft money and the chase for those huge contributions led to problems.

This chase is not prohibited under the Shays-Meehan bill, the result being that soft money can continue to be raised for the State parties under Shays-Meehan by presidential candidates. In the Year 2000, they will be able to go from State to State to State to raise soft money.

It is true that they are restricted at the State level as to how that money can be spent. But then they can engage in a deal; we will raise soft money for the State and that will be spent and that will free up money for the Federal candidates.

So the freshman bill would prohibit that conduct by separating Federal candidates, Federal office holders, from raising that soft money.

So I have the highest regard for the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) who have proposed this bill, but I believe the freshman bill, the bipartisan bill represents a better way.

For that reason, I would urge my colleagues to vote "no" on Shays-Meehan and support the freshman bill.

Mr. MEEHAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would just point out that any money that is spent in America to influence an election ought to be disclosed. That is a basic premise in our bill. If money is spent 60 days before an election to influence that election, the public has a right to know who spent that money.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS), who was just elected to this House in March in a special election to take her husband Walter's seat. The very first piece of legislation that the gentlewoman signed on to was the Shays-Meehan bill.

Mrs. CAPPS. Mr. Chairman, I am pleased that this day has finally come. In the face of many roadblocks, we are now debating the bipartisan Shays-Meehan bill. I commend my colleagues the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their extraordinary perseverance on this issue.

Mr. Chairman, as someone who has run in three elections in the past six months, I can tell my colleagues that the American people are crying out for us to clean up our political system. The bill before us will close the biggest loopholes in that system: soft money and sham issue advocacy ads.

In my recent special election which was strongly contested, my conservative Republican opponent and I did not agree on very much, but we did agree that in our race these ads flooded the airwaves with very misleading information. And although the ads clearly targeted one of us, either of us, both of us for election or defeat, there was no disclosure and no limits on how they were funded.

Mr. Chairman, let us not lose sight of the dramatic shift that is occurring out there in the campaigns. The voters are becoming pawns in battles between powerful outside interest groups.

We need to pass the bipartisan Shays-Meehan bill and bring the political process back to the people. If we fail, our elections will only get more expensive and more dominated by special interest, and the cynicism and outrage of the American people will increase.

I strongly encourage my colleagues to pass this historic bipartisan legislation. I have the greatest admiration for my colleagues on both sides of the aisle who are willing to come together, particularly the freshmen Members who worked so many months to craft legislation and are now coming together behind Shays-Meehan so that we can be credible with our constituents and really do something important in this area.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Chairman, there is not a single piece of legislation, no matter how good, that cannot be picked apart with the technical arguments. I am not going to do that. I am going to get away from emotions and the words and all the negative aspects.

I think that there are really two words that come to mind, and that is it is just "too much." It is too much money. I cannot imagine looking at a primary election in California where two people spent $60 million. Is that free speech? It is not free to me; it is pretty expensive.

Will it be $60 million next round? Will it be $100 million? With the gross domestic product going up and inflation going up, will it be $200 million? What is too much? Where does this lead us? Is this what we want to leave as a legacy?

Mr. Chairman, I ask this about my children. Do I want them to come into this body, or try to come into this body, and say, listen, it is going to be a great run and it is going to cost $50 million. And if they run for five terms, it is maybe $250 million. Is this what we want? It is crazy.

We have real limits for individuals and groups and we have absolutely no limits for this loophole which was never intended to be. Our job here in this and other legislation is to close loopholes. They were never intended they should not be, we should get at it.

The Shays-Meehan bill does this, and I feel we should support it.

Mr. DOOLITTLE. Mr. Chairman, may I inquire as to the time that each side has remaining.

The CHAIRMAN pro tempore (Mr. CALVERT). The gentleman from California (Mr. DOOLITTLE) has 10 minutes remaining, the gentleman from Connecticut (Mr. SHAYS) has 8¾ minutes remaining, and the gentleman from Massachusetts (Mr. MEEHAN) has 8½ minutes remaining.

Mr. DOOLITTLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. HYDE), the chairman of our House Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I am certainly no expert in this field and campaign reform is a legitimate subject that needs attention and a lot of it. I would just say to the gentleman from New York (Mr. HOUGHTON), my friend, that all that money spent on that election out there was almost the first weekend's take on the Titanic when they showed it. Everything is relative.

The one glaring problem with Shays-Meehan is we do not take into account for contributions in kind. Labor unions, at least where I come from, can throw all kinds of bodies into the precincts on the weekend. They work the shopping malls, hand out the shopping bags, work the phone banks, go door to door. Labor does that and God bless them for doing that. They are participating in the most important act, civic act they can.

But the business community does not do that. They play both sides of the street. They cover their bets. Soft money is the only way Republicans who do not have access to the bodies that organized labor throws into the turmoil, it is the only way to equalize that. They can buy people's time who can work the phone banks and hand out the shopping bags.

One would like to have volunteers and tries to have them. But one cannot equal what labor can throw into an election. And neither bill takes care of that. It gives advantage to the Democrats because by limiting, if not eliminating soft money, the Republicans are left bereft of resources to equal the hundreds of people that can work in a precinct for a Democratic candidate sent in by the Teamsters or some other union.

Mr. Chairman, as I say, I am not critical of that. But if we are reforming, we ought to take into consideration the consequences of the reform. Giving the Democratic Party such an advantage in my judgment is not reform.

Mr. MEEHAN. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise in support of the Shays-Meehan substitute. This bipartisan effort to begin the process of mending a flawed system is necessary and appropriate and long overdue.

When I was sworn in as a newly elected Member of Congress 2 months ago, my first official act was to join over 200 of our colleagues in signing the discharge petition which would allow us to engage in meaningful debate on campaign finance reform.

I am pleased that today has arrived, despite the fact that the past few weeks have seen a deliberate effort to divert our attention away from real campaign finance reform.

In the spirit of democracy, campaigns should be about ideas, not money. Of course, I personally firmly believe that public financing of political campaigns is the ultimate answer to access and full participation by grassroots organization, women, and people of color. However, the Shays-Meehan substitute is a major step forward in taking us closer to ensuring a fair and equitable approach to financing elections.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the dynamic gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I thank the gentleman from Connecticut (Mr. SHAYS) for yielding.

Mr. Chairman, on this issue, probably more than others that we will address, the perfect should not be the enemy of the good. This bill, of course, is not perfect, but it is good. It is better than what we have now and it is better than it used to be, because I frankly do not like taxpayer financing or broadcaster financing of campaigns. They took that out of this bill and they replaced it with some better provisions.

The two things we should focus on is banning soft money, which any thinking person is for, it is way out of hand; and, secondly, trying to hold accountable these outside groups that come in in the last few days of a campaign and assassinate people with unlimited, unregulated, now huge sums of money dumped from nowhere in campaigns. Pretty soon we as candidates will not even be able to control the message in our own campaigns.

Mr. Chairman, I have been at this long enough to know also that reformers need to come together. I hate to see reformers carping at each other over details. If we do not come together on this issue, it is not going to happen.

What should the measurement be? Is the bill better than what we have now? This bill clearly meets that test. This is a messed up system. We have got to change it. We cannot go back to the way things used to be, even though I would say to the gentleman from California (Mr. DOOLITTLE) that ideally that would be nice. But I do not think that is practical. What is practical is to try to reform the current system we have today. This is a step in the right direction.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I rise in strong support of the bipartisan Shays-Meehan substitute because it is the only bill I think that really truly provides comprehensive campaign finance reform. So many of the other bills do not deal with one of the greatest loopholes in our campaign system, and that is the lack of any restrictions on issue advocacy ads.

Issue ads make a mockery of Federal election law because they are not required to report the source of their political contributions. Issue ad groups are entitled to speak, and I vigorously defend their constitutional right to do so. However, their speech should not be protected more than any other political speech.

The public deserves to know who funds Federal elections. Is a foreign government attempting to elect one of their own to the U.S. Congress? Is an organized crime ring trying to defeat a Member who has been tough on crime? Without disclosures and limits we do not know. Shays-Meehan fixes the problem.

Mr. Chairman, in my last campaign, issue groups brought ads worth over $250,000 to try to defeat me. When the press and Members of the public asked me who was behind these ads, I could only give them one answer: I do not know.

While anyone can easily track who had paid for my ads, my opponent's ads, and both of our parties' ads, no information was available concerning the ads paid for by these groups.

This chart clearly points out we are not trying to limit the right of someone to speak. We are just saying that anyone who tries to influence the outcome of an election who uses a name and likeness of a candidate 60 days before it should live by the same rules as anyone else that has participated by contributing to our own campaigns.

□ 1745

A person who gives me $200, we have to know his name, his address, their occupation, the date of contribution, the amount of contribution, the aggregate. Yet in my last election, we had a group that came in and spent $250,000, and yet nobody knew their name. Nobody knew the source of the dollars. That is wrong. That is why we should support Shays-Meehan.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, certainly I am a strong supporter of

Shays-Meehan. Quite frankly, I think this is a debate that we have had years ago. In fact, the loopholes have abolished all the enforcement of the post Watergate reforms. So we are here today really dealing with a dire need for reform.

I know some are going to say, what are we talking about? The American people do not have this on their radar screen. They do not care. I submit the American people do care, but they have given up on us. I am afraid their cynicism will be justified if we do not act tonight on Shays-Meehan.

I have got to say that, if we look at the way the system works, there has been a lot of evidence that proves the need for what we are talking about today, the explosion of soft money, fat cats buying access, White House coffees, Members and Senators spending their waking moments raising cash, and certainly the indication of foreign contributions to our election system.

I have got to say that, after the Thompson hearings and the hearings of the gentleman from Indiana (Mr. BURTON), one thing is very clear to all of us, that the campaign finance system is out of control.

I have got to say that there are some who have been picking at this legislation, but I have got to say that any objective observer knows that Shays-Meehan gets right to the heart of the problem. It addresses banning, not only soft money, but it bans contributions from foreigners, and also addresses the Beck decision regulations. It is the only substitute amendment that contains a hard ban on soft money, and it should be passed.

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

Mr. DOOLITTLE. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, we have heard a lot of discussion today about too much money being in politics. We have asked that question before, too, what is too much money. Any time we ask the advocates of this legislation, it is very difficult for them to answer the question what is too much money.

Then we talk about what is the special interest. It is pretty obvious that a special interest is any group saying something that we do not agree with.

Then we have heard people say we do not know who is doing these TV ads against us. The TV ads have the disclaimers on them. We know the groups that ran the ads. We may not like it. The gentleman was talking about $50,000 spent against him. I had $800,000 spent against me by labor unions. I did not like it, but it is their constitutional right to do that. I knew that they ran the ads because of the disclaimer.

People have talked about, we, these individuals are spending too much money on their campaigns. Mr. Checchi, out in California, Ms. Harman, Mr. Issa spent a total of maybe $40 million, maybe more, in their campaigns. It was their money. I think, in America, individuals have a right to spend their money the way they want to spend it. By the way, all three of them lost.

In Kentucky, we had an individual running for the U.S. Senate, Charlie Owens, who spent $7 million of his money, the most ever spent in Kentucky on a Senate race. His money, not anybody else's. He has a right to spend his money. Guess what. He lost.

Then we have heard a lot about, well, we have got to have Shays-Meehan because it is going to clean up this problem that we have with foreign nationals contributing to these campaigns. Section 441(e) of the current Federal Election Law says, "It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressively or impliedly to make any such contribution, in connection with an election to any political office", and so forth and so forth and so forth. So we have the laws on the books.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Chairman, I stand here as a conservative in support of this bill, because I think we all have to ask ourselves, when the Federal Government controls $1.7 trillion worth of daily activity as we go through the year, do we want people to have disproportionate levels of influence? I would answer no.

It ties straight to the larger question. That is, if someone gives large amounts of dollars, do they expect something in return? I think the answer is unequivocally yes. Common sense would say if one gives large amounts of money to somebody else that they expect something in return.

Tamraz, when asked before the Senate Finance Committee why did he give such large amounts of money, he said because it works. For that matter, the recent movie Bulworth, which some may have seen, talked about Bernard Schwartz and how he and the Loral Corporation had given $2 million to the DNC with surprising effect, because what they had been after, which is a satellite technology transfer, went through.

We can come up with lots of other examples. We can talk about Archer Daniels Midland and the ethanol subsidy. We can talk about many different areas wherein a disproportionate amount of influence seems to be tied to money.

The CHAIRMAN. The Chair will inform the Committee of the Whole that the gentleman from Connecticut (Mr. SHAYS) has 4¾ minutes remaining. The gentleman from California (Mr. DOOLITTLE) has 6 minutes remaining. The gentleman from Massachusetts (Mr. MEEHAN) has 5½ minutes remaining.

Mr. MEEHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, over the weekend, when I was driving to my district, I came up behind a car that had a bumper sticker that read "Invest in America; buy a congressman." Interestingly enough, my chief of staff saw the same bumper sticker here in Washington, D.C. Apparently, this is a more widespread view than many of us would hope.

It was fascinating to me, as I watched the earlier debate, that both parties, both sides of the aisle spent a certain amount of time attacking one another from where their monies were coming from, hoping that they would create some sort of suspicion on the part of the people watching at home about the other side and the availability of dollars and the source of dollars to them.

I think that both sides succeeded. I think that the people at home believe that neither side is particularly clean about money. People at home believe that something has to be done about the campaign finance system in this country.

The gentleman from Texas said the issue here is speech. No, the issue here is trust, how we are going to build a system that people at home can trust. I believe that we can have a system that protects free speech and is trustworthy, and I believe Shays-Meehan provides just that. It does not limit spending in any way that is not currently regulated.

Someone mentioned that it does not codify the Beck decision because it only applies to people who would leave their unions. In fact, the Beck decision only applies to people who are currently paying agency fees to unions that they have chosen not to become members of.

So much disinformation has been at work in this debate. Everyone has tried so much to disinform, to frighten people, to move us away from what our constituents want, which is a system we can trust, 435 people in the House of Representatives elected in a system that we can trust. Shays-Meehan will move us there. Please support it.

Mr. SHAYS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from Washington (Mr. METCALF), and I am happy he is here.

Mr. METCALF. Mr. Chairman, I rise in support of the Shays-Meehan substitute as the most comprehensive campaign finance reform bill we have today. I would like to thank the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their countless hours in bringing forth a bill that will dramatically change the campaign structure of this Nation.

Mr. Chairman, I was one of the Members who committed to sign the discharge petition that would have forced a vote on the Shays-Meehan bill. I did this because the American people have lost faith in the way Congress is elected, and that must be changed. Because this bill is a carefully balanced approach, my intention is to oppose all amendments.

Let me reiterate that we are at the threshold of major campaign finance reform. We have risked failure on real campaign finance reform by weighting down Shays-Meehan with a multitude of amendments. Shays-Meehan is the only bicameral legislation that can pass both the House and Senate this year. Let us support it without amendments.

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

Mr. Chairman, in the context of the debate in the House, the phrase "campaign finance reform" is really synonymous, it is a code word for the government regulation of political speech.

I would just like to pose this question: If regulation works so well, then why are we in such a mess after 25 years of regulation? It was the liberal Democrats that rammed this through in 1974 with the cooperation of a Republican President.

This is when we received the limits on what individuals could contribute. This is what gave birth to PACs. This is what gave birth to the terms soft money, hard money, issue advocacy, independent expenditure. All of these, it is like opening Pandora's box. It started maybe in 1971 but got infinitely worse in 1974. Pretty much, that is how we have continued through the present.

This has produced the morass of complex, disastrous laws that we have right now where loopholes were closed in 1971, and more were closed in 1974. Guess what. For every loophole that was closed, a new one opened up over here on the other side.

We cannot enact comprehensive campaign finance reform; i.e., complete government regulation of political speech. Why? Because we have a Constitution. The Constitution, as long as it exists, provides certain "loopholes," namely, certain freedoms that American citizens will have.

So the more we attempt additional regulation, the more unintended consequences we will have over here; and the morass we have now will be made even worse. That is why I believe the answer is deregulation.

The largest State in the Union, California, is free of the heavy-handed regulation in the present law as well as the way that the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) wish to make it.

The Commonwealth of Virginia has the same type of a law. Anybody can contribute, just disclose it. Just let the voters know who is giving to whom. Then let them make the decision. That is what the founders intended. That is why I said I do not know what could be more clear than this. But leave it to Congress to foul this up in the First Amendment. It says, "Congress shall make no law abridging the freedom of speech." What could be more crystal clear than that?

The Shays-Meehan bill is a bill about how to abridge the freedom of speech. Other bills we will take up, including the Hutchinson–Allen bill, are about how to abridge the freedom of speech in ways they think they can somehow get around the Constitution.

□ 1800

Well, it has been pointed out and I believe, the Shays-Meehan bill is an incumbent protection bill. If I wanted to do one thing to help me the most as a candidate incumbent, I would vote for Shays-Meehan. It will guarantee that I will be in office as long as I wish to. Why? Because we have certain inherent advantages as incumbents that challengers do not have.

The bill violates, as was pointed out by the gentleman from Texas (Mr. DELAY), the tenth amendment, because it federalizes State election law. It violates the first amendment by abridging the freedom of speech. This bill is unconstitutional for those reasons.

It is undesirable. Even if it somehow were constitutional, it is undesirable. It limits political discourse.

What we need is the free interchange of ideas in elections. I find the biggest complaint my constituents have is they want more information. They are hungry for information. And bills like Shays-Meehan are going to cut off that information and they are going to turn over the power to the government czar. And we can trust the government, right?

This bill is also unworkable. Let us suppose for a minute somehow it met the constitutional test; somehow we could, in the remotest way, consider it desirable as opposed to undesirable. It is unworkable. For 25 years we have had their disastrous approach to campaigns. It has utterly failed. And the more they regulate, the worse it gets. And instead of stepping back and figuring out maybe we have got the wrong approach here, maybe regulation is not the answer, no, we have a plethora of bills that want to add to the problem. More regulations, more restrictions, more heavy hand of government.

Freedom works, Mr. Chairman. And this is a very key debate in this House, and we will take this up. Freedom works. We all know what the founders meant when they said Congress shall make no law abridging the freedom of speech. I urge my colleagues to oppose Shays-Meehan and to support concepts of freedom that have made us the greatest and the freest country in the history of the world.

Mr. MEEHAN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as we begin this debate, one of the difficulties that we face is trying to deal with so much information that comes to the floor of the House about the Shays-Meehan proposal. I had mentioned earlier that there was a quote up here from the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Missouri (Mr. GEPHARDT). There was a quote made on February 7, 1997, and there were correlations made by a number of speakers that this statement was made, and it is in conflict with the Shays-Meehan bill that we are dealing with today. The Shays-Meehan bill that we are dealing with today was not even filed until March 19, 1998.

Now, there have been other statements made about limits in spending not being constitutional. But I want to make it very clear that the first amendment implications of spending limits does not even apply to this debate because the Shays-Meehan bill does not include spending limits.

Now, the previous speaker made some comments about problems with our campaign finance system. He must believe that there are problems, because there have been millions of dollars spent investigating those problems and bringing up those problems. But when this campaign finance reform passed, after Watergate, in the 1976 Presidential election there were zero dollars spent of soft money.

And then it increased to about $19 million the next year, and then it increased from there, and it increased from there, and now we have hundreds of millions of dollars in soft money being spent, circumventing the disclosure laws and the limits that have been in effect since that time.

So this is not a problem that we have had for the last 25 years with regard to soft money. It is a problem that has grown over a period of the last 25 years.

Mr. Chairman, there has been a debate about issue ads. Opponents of campaign finance reform tell us that we must protect free speech. But when they say free speech, they mean big money. The fact is that the Shays-Meehan bill does not ban any type of communication. It merely reins in those campaign advertisements that have been masquerading as so-called issue advocacy. And according to the Supreme Court, communications that expressly advocate the election or defeat of a clearly identified candidate can be subject to regulation.

There is a lot of misinformation on the floor of this House relative to what this bill does with labor. The United States Supreme Court made a decision stating that workers cannot be forced to pay for political advertisements.

Nonunion employees who pay for union representation do not have to finance political union activities.

This bill includes a codification of Beck. It is a compromise that was reached between Democrats and Republicans. So this talk about this bill not dealing with unions simply is not so.

This bill improves FEC disclosure and enforcement. This bill has franking provisions to limit franking to 6 months before an election. This bill has foreign money and fund-raising on government money provisions.

It is a good strong piece of legislation that is the result not of partisanship, not of attempts to divide Democrats and Republicans, but rather an attempt to bring Democrats and Republicans together. Not only Democrats and Republicans in the House, but Democrats and Republicans in the other body.

We have a unique opportunity to change history and pass historic campaign finance reform. Let us vote for Shays-Meehan.

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from Iowa (Mr. LEACH). He has been the leader on campaign finance reform over his term in Congress.

Mr. LEACH. Mr. Chairman, first I want to reflect great respect for the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for their leadership on this issue.

Secondly, let me just say that over my time in the United States Congress we have seen a number of changes that have occurred in the American political system. One that has become ever apparent is that as the political system becomes more and more hallmarked by the need for financing, candidates become increasingly tied to those who make the largest campaign contributions. The system is in need of reform.

One aspect of this relates to an old-fashioned word used in the 19th century, not much in the 20th, and that is the word "oligarchy." As systems of governance become based upon a few influencing the many, they are called oligarchies and they are not democracies.

Democracy is what is at issue today.

The second trend that is extraordinary is that our Founding Fathers thought of a system of governance in which people would be elected from various parts of the country and bring to Washington the background of that part of the country. But as campaign giving is nationalized, attitudes are nationalized, and what we are seeing is the nationalization of elections. Instead of people becoming first and foremost accountable to the people in their districts, they are becoming first and foremost accountable to the people that influence the people in their districts.

Shays-Meehan, in my judgment, represents a first small but substantive step to put the people back in power.

Mr. SHAYS. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN pro tempore (Mr. DICKEY). The gentleman from Connecticut (Mr. SHAYS) has 2¼ minutes remaining.

Mr. SHAYS. Mr. Chairman, I yield myself the balance of my time.

This is the beginning of, I think, a fairly long and comprehensive debate, and I would first thank my colleagues on both sides of the aisle for the integrity with which they present their views, but to say, with no reluctance at all, that it is clear to me that the Meehan-Shays proposal will have to deal with a lot of misinformation about it.

For instance, it was stated, we do not allow scorecards. We specifically provide that scorecards are allowed. It says we do not deal with labor dues money. We deal with it in two ways: codification of Beck, and calling the "sham issue" ads what they are: "campaign" ads. By doing this we forbid corporate and union dues money to be used 60 days to an election in the campaign, because it is against the law to use corporate or labor money in an election.

When oppoents talk about federalizing State elections, that is just bogus. All we do is say we cannot raise soft money on the Federal and State levels for Federal elections.

When opponents talk about a gag rule, that also is bogus. We provide that third parties can spend what they will. That is the Supreme Court's decision. But when it is a campaign ad, it comes under the campaign law. We have freedom of speech under the campaign law.

I hope and pray that during the course of this debate, we will get down to what is in the bill and what is not, and we can truly argue those disagreements. But most of the complaints we have heard were not technicalities or little complaints, they were just misinformation about the bill.

I again want to thank my colleague the gentleman from Massachusetts (Mr. MARTY MEEHAN) and so many on his side of the aisle for taking a very strong position on campaign finance reform, and I encourage all to vote for the Meehan-Shays substitute.

Mr. Chairman, I yield back the balance of my time; and, Mr. Chairman, do I need to ask to move the amendment at this time?

The CHAIRMAN pro tempore. The gentleman may offer the amendment.

AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. SHAYS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Campaign Reform Act of 1998".

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

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.
Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Civil penalty.
Sec. 203. Reporting requirements for certain independent expenditures.
Sec. 204. Independent versus coordinated expenditures by party.
Sec. 205. Coordination with candidates.

TITLE III—DISCLOSURE

Sec. 301. Filing of reports using computers and facsimile machines.
Sec. 302. Prohibition of deposit of contributions with incomplete contributor information.
Sec. 303. Audits.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Use of candidates' names.
Sec. 306. Prohibition of false representation to solicit contributions.
Sec. 307. Soft money of persons other than political parties.
Sec. 308. Campaign advertising.

TITLE IV—PERSONAL WEALTH OPTION

Sec. 401. Voluntary personal funds expenditure limit.
Sec. 402. Political party committee coordinated expenditures.

TITLE V—MISCELLANEOUS

Sec. 501. Codification of Beck decision.
Sec. 502. Use of contributed amounts for certain purposes.
Sec. 503. Limit on congressional use of the franking privilege.
Sec. 504. Prohibition of fundraising on Federal property.
Sec. 505. Penalties for knowing and willful violations.
Sec. 506. Strengthening foreign money ban.
Sec. 507. Prohibition of contributions by minors.
Sec. 508. Expedited procedures.
Sec. 509. Initiation of enforcement proceeding.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.
Sec. 604. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political

party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) FEDERAL ELECTION ACTIVITY.—

"(A) IN GENERAL.—The term 'Federal election activity' means—

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

"(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

"(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

"(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention;

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

"(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

"(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

"(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Commissioner of the Internal Revenue Service for determination of tax-exemption under such section).

"(e) CANDIDATES.—

"(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds for a Federal election activity on behalf of such candidate, individual, agent or any other person, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) STATE LAW.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for any activity other than a Federal election activity.

"(3) FUNDRAISING EVENTS.—Paragraph (1) does not apply in the case of a candidate who attends, speaks, or is a featured guest at a fundraising event sponsored by a State, district, or local committee of a political party.".

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C)—

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000".

(b) AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUAL.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking "$25,000" and inserting "$30,000".

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 203) is amended by inserting after subsection (d) the following:

"(e) POLITICAL COMMITTEES.—

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—A political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (2)(A) and (3)(B)(v) of section 323(b).

"(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

"(A) IN GENERAL.—The term 'independent expenditure' means an expenditure by a person—

"(i) for a communication that is express advocacy; and

"(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.".

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) EXPRESS ADVOCACY.—

"(A) IN GENERAL.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

"(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

"(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is transmitted through radio or television within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate

for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

"(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

"(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

"(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

"(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

"(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.".

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(iii) a payment for a communication that is express advocacy; and

"(iv) a payment made by a person for a communication that—

"(I) refers to a clearly identified candidate;

"(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

"(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).".

SEC. 202. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(ii) by adding at the end the following:

"(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A).'"; and

(B) in paragraph (6)(B), by inserting "(except an action instituted in connection with a knowing and willful violation of section 304(c))" after "subparagraph (A)"; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking "Any person" and inserting "Except as provided in subparagraph (D), any person"; and

(B) by adding at the end the following:

"(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.".

SEC. 203. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) of subsection (c) as subsection (f); and

(3) by inserting after subsection (c)(2) (as amended by paragraph (1)) the following:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

SEC. 204. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

"(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

"(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

"(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.".

SEC. 205. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking "or" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office."; and

(B) by adding at the end the following:

"(C) The term 'provided in coordination with a candidate' includes—

"(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

"(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

"(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

"(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

"(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

"(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's

decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

"(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

"(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

"(ix) communication by a person with the candidate or an agent of the candidate, occurring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

"(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

"(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

"(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.".

(2) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III—DISCLOSURE

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

"(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

"(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

"(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

"(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

"(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.".

SEC. 302. PROHIBITION OF DEPOSIT OF CONTRIBUTIONS WITH INCOMPLETE CONTRIBUTOR INFORMATION.

Section 302 of Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

"(j) DEPOSIT OF CONTRIBUTIONS.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.".

SEC. 303. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Commission"; and

(2) by adding at the end the following:

"(2) RANDOM AUDITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least 4 members of the Commission.

"(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

"(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.".

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking "$200" and inserting "$50"; and

(2) by striking the semicolon and inserting ", except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;".

SEC. 305. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name; or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 306. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 307. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103(c) and section 203) is amended by adding at the end the following:

"(g) DISBURSEMENTS OF PERSONS OTHER THAN POLITICAL PARTIES.—

"(1) IN GENERAL.—A person, other than a political committee or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

"(A) on a monthly basis as described in subsection (a)(4)(B); or

"(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

"(2) ACTIVITY.—The activity described in this paragraph is—

"(A) Federal election activity;

"(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; and

"(C) an activity described in subparagraph (C) of section 316(b)(2).

"(3) APPLICABILITY.—This subsection does not apply to—

"(A) a candidate or a candidate's authorized committees; or

"(B) an independent expenditure.

"(4) CONTENTS.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

"(A) the aggregate amount of disbursements made;

"(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

"(C) the date made, amount, and purpose of the disbursement; and

"(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.".

(b) DEFINITION OF GENERIC CAMPAIGN ACTIVITY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is further amended by adding at the end the following:

"(21) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means an

activity that promotes a political party and does not promote a candidate or non-Federal candidate.".

SEC. 308. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement"; and

(iii) by striking "direct"; and

(B) in paragraph (3), by inserting "and permanent street address" after "name"; and

(2) by adding at the end the following:

"(c) Any printed communication described in subsection (a) shall—

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any communication described in paragraphs (1) or (2) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a communication described in paragraph (1) is transmitted through television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

"(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '_____ is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

TITLE IV—PERSONAL WEALTH OPTION

SEC. 401. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 101) is amended by adding at the end the following:

"SEC. 324. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

"(a) ELIGIBLE CONGRESSIONAL CANDIDATE.—

"(1) PRIMARY ELECTION.—

"(A) DECLARATION.—A candidate for election for Senator or Representative in or Delegate or Resident Commissioner to the Congress is an eligible primary election Congressional candidate if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

"(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

"(2) GENERAL ELECTION.—

"(A) DECLARATION.—A candidate for election for Senator or Representative in or Delegate or Resident Commissioner to the Congress is an eligible general election Congressional candidate if the candidate files with the Commission—

"(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

"(ii) a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

"(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

"(i) the date on which the candidate qualifies for the general election ballot under State law; or

"(ii) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

"(b) PERSONAL FUNDS EXPENDITURE LIMIT.—

"(1) IN GENERAL.—The aggregate amount of expenditures that may be made in connection with an election by an eligible Congressional candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

"(2) SOURCES.—A source is described in this paragraph if the source is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

"(c) CERTIFICATION BY THE COMMISSION.—

"(1) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible Congressional candidate.

"(2) TIME FOR CERTIFICATION.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible Congressional candidate.

"(3) REVOCATION.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

"(4) DETERMINATIONS BY COMMISSION.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

"(d) PENALTY.—If the Commission revokes the certification of an eligible Congressional candidate—

"(1) the Commission shall notify the candidate of the revocation; and

"(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).".

SEC. 402. POLITICAL PARTY COMMITTEE COORDINATED EXPENDITURES.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) (as amended by section 204) is amended by adding at the end the following:

"(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for Senator or Representative in or Delegate or Resident Commissioner to the Congress who is not an eligible Congressional candidate (as defined in section 324(a)).".

TITLE V—MISCELLANEOUS

SEC. 501. CODIFICATION OF BECK DECISION.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

"(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.—

"(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

"(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

"(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

"(i) reasonable personal notice of the objection procedure, the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

"(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

"(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

"(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures;

"(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

"(3) DEFINITION.—In this subsection, the term 'expenditures supporting political activities unrelated to collective bargaining' means expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.".

SEC. 502. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

"(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers to a national, State, or local committee of a political party.

"(b) PROHIBITED USE.—

"(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility.".

SEC. 503. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) A Member of Congress shall not mail any mass mailing as franked mail during the 180-day period which ends on the date of the general election for the office held by the Member or during the 90-day period which ends on the date of any primary election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection during that year or for election to any other Federal office.".

SEC. 504. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—

"(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value for a political committee or a candidate for Federal, State or local office from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not solicit a donation of money or other thing of value for a political committee or candidate for Federal, State or local office, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both."; and

(2) by inserting in subsection (b) after "Congress" "or Executive Office of the President".

SEC. 505. PENALTIES FOR KNOWING AND WILLFUL VIOLATIONS.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking "$5,000" and inserting "$10,000"; and

(2) in paragraphs (5)(B) and (6)(C), by striking "$10,000 or an amount equal to 200 percent" and inserting "$20,000 or an amount equal to 300 percent".

(b) EQUITABLE REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting ", and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).".

(c) AUTOMATIC PENALTY FOR LATE FILING.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

"(13) PENALTY FOR LATE FILING.—

"(A) IN GENERAL.—

"(i) MONETARY PENALTIES.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

"(ii) REQUIRED FILING.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

"(iii) PROCEDURE.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

"(B) FILING AN EXCEPTION.—

"(i) TIME TO FILE.—A political committee shall have 30 days after the imposition of a penalty or filing requirement by the Commission under this paragraph in which to file an exception with the Commission.

"(ii) TIME FOR COMMISSION TO RULE.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.";

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: "In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A)."; and

(B) by inserting before the period at the end of the last sentence the following: "or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)"; and

(3) in paragraph (6)(A), by striking "paragraph (4)(A)" and inserting "paragraph (4)(A) or (13)".

SEC. 506. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—It shall be unlawful for—

"(1) a foreign national, directly or indirectly, to make—

"(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election to a political committee or a candidate for Federal office, or

"(B) a contribution or donation to a committee of a political party; or

"(2) a person to solicit, accept, or receive a contribution or donation described in paragraph (1)(A) from a foreign national.".

SEC. 507. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by sections 101 and 401) is amended by adding at the end the following:

"SEC. 325. PROHIBITION OF CONTRIBUTIONS BY MINORS.

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.".

SEC. 508. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 505(c)) is amended by adding at the end the following:

"(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

"(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

"(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

"(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

"(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.".

(b) REFERRAL TO ATTORNEY GENERAL.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is

amended by striking subparagraph (C) and inserting the following:

"(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section.".

SEC. 509. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking "reason to believe that" and inserting "reason to investigate whether".

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect January 1, 1999.

SEC. 604. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 180 days after the date of the enactment of this Act.

Mr. SHAYS. Mr. Chairman, I am fully prepared to go to a vote on this legislation.

The CHAIRMAN pro tempore. Does the gentleman yield back the balance of his time?

Mr. DOOLITTLE. Mr. Chairman, I rise in opposition and point out there are other amendments.

The CHAIRMAN pro tempore. Does the gentleman wish to yield at this time?

Mr. SHAYS. Yes. Let me be clear, Mr. Chairman. Do I have 5 minutes now, or can I reserve that 5 minutes?

The CHAIRMAN pro tempore. The gentleman may not reserve his time.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from Connecticut (Mr. SHAYS) has 5 minutes on his amendment.

Mr. SHAYS. Mr. Chairman, I yield to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I thank my colleague from Connecticut and thank both authors of this amendment. I think it is a balanced amendment. It does not do everything we would like to see, but what legislation does?

I think we are recognizing that this issue of campaign finance reform is not Democrat or Republican. We all carry blame for what was or was not done in the past. We all carry blame for the fact that the system is not working as we know it should.

And so I would ask my colleagues to take a look at this amendment. It is comprehensive. There are parts in it that Republicans may not like, but there are parts in it where the supporters of Democrats will be infuriated. There are practices that, sadly, have become all too common, that have been used by Democratic supporters and Republican supporters, that the American people know are wrong and inappropriate. One of those activities is groups coming in at the last moment in elections and doing something that is supposedly an educational piece, which we all know are last-minute hit pieces and smear pieces.

The American people expect candidates to keep their campaigns above the belt. Sadly, there are groups that are subverting the process by using dirty tactics late in campaigns and claiming that they are educational pieces. The Shays-Meehan bill will help to reduce that type of tactic in our electoral process.

I want to say, as a Californian, I think there is one thing that is very clear that the people in this country are going to say quite loudly in the next few elections, because I saw it in California. Dirty tactics are going to backfire. Shays-Meehan helps to reduce the potential for those types of tactics being used in our Federal elections.

And I want to thank my colleague, the gentleman from Connecticut (Mr. SHAYS), and the gentleman from Massachusetts (Mr. MEEHAN) for bringing this forward and working together. Let us have a bipartisan effort in addressing these problems.

Mr. SHAYS. Mr. Chairman, I yield to the gentleman from Wisconsin (Mr. BARRETT).

Mr. BARRETT of Wisconsin. Mr. Chairman, I want to thank the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) and all the others that have been involved in this really historic effort. This has been a tremendous effort and it is just the beginning of a tremendous effort.

I am frustrated because when I talk to people in my district, in particular, young people, I find a tremendous amount of distrust in our democratic process. People have tuned out of the system because they do not think that it is responsive to them. They feel as though they cannot be a player in the game because they do not have a lot of money.

I am someone who firmly believes that democracy works only as well as we make it work. It is the ultimate participatory sport. And if young people, or any people in this country feel that they cannot be part of this system because of what they see going on right now in our country, that is bad for democracy.

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That is bad for everybody here, whether they are a Democrat or Republican or an Independent. We should be encouraging people to be involved in this system.

I think that the Shays-Meehan proposal takes away some of the cynicism that is out there because it lets people understand that we do not want unregulated soft money coming into this system. We do not want drive-by shootings that are basically what some of these 30-second commercials are. What we want is we want integrity in the system. And I think that this is a very serious and a very meritorious attempt to bring some integrity back to the system.

So I am very proud to stand today to support the gentleman from Connecticut (Mr. SHAYS) and to support the gentleman from Massachusetts (Mr. MEEHAN). We have waited a long, long time for this debate. But, hopefully, we will be able to plow through these amendments and in the end we will support this proposal because it is a very good proposal.

Mr. SHAYS. Mr. Speaker, I thank the gentleman and say that in the near future when we will be discussing a number of amendments, it is possible that we will support some of those amendments.

We certainly are going to support the amendment on the commission bill offered by the gentleman from Michigan (Mr. DINGELL) and the gentlewoman from New York (Mrs. MALONEY). And it is also possible we will support some other amendments.

But we hope that this legislation, the Meehan-Shays legislation, remains intact. We hope to pass this bill to ban soft money, to recognize the sham issue ads that truly campaign ads, to codify the "Beck" decision to improve FEC disclosure enforcement, to deal with the franking problem, and to provide that foreign money and fund-raising on government property is illegal.

I urge support for the Meehan-Shays substitute.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

PARLIAMENTARY INQUIRY

Mr. DOOLITTLE. Mr. Chairman, I was rising in opposition to claim the 5-minute time under the rule to his amendment. Is that not indeed the case?

The CHAIRMAN pro tempore (Mr. DICKEY). The Chair is endeavoring to alternate sides under the 5-minute rule.

Mr. DOOLITTLE. Mr. Chairman, I did not strike the last word. I thought

we got 5 minutes on our side to oppose the initial offering of the amendment.

Mr. SHAYS. Mr. Chairman, I have no objection to the gentleman asking for 5 minutes. I did not know I had asked for 5 minutes.

The CHAIRMAN pro tempore. Members will suspend.

The time is not controlled. Debate is under the 5-minute rule. The Chair will alternate.

The gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I rise in strong support of the Shays-Meehan campaign finance reform and commend both of the authors for their tenacity and their hard work in bringing us to this point.

Having joined with the gentleman from Kentucky (Mr. BAESLER) and other members of the Blue Dog Coalition to initiate a discharge petition last October to force consideration of campaign finance reform, I am very pleased to be here tonight finally debating a serious, substantive proposal to reform our campaign finance laws.

The current campaign finance system hands a loudspeaker to interest groups and political parties, and while ordinary citizens are reduced to speaking in a whisper. That is not the free speech envisioned by the First Amendment.

Enacting campaign finance reforms that limit the influence of wealthy individuals, special interest groups and political parties is critical to restoring the integrity of our democratic process.

I respectfully disagree with opponents of campaign finance reform who argue that the free speech protections in the First Amendment guarantee the right of any individual or group to spend unlimited amounts of money to influence an election without having to take the responsibility for the advertisements or even acknowledge that they are funding the advertisements.

The Shays-Meehan amendment strikes to the heart of the problems in the current campaign finance system by addressing the two areas of the campaign finance system that are outside of the rules; the unregulated, unlimited donations to political parties by corporations, labor unions and wealthy individuals known as soft money and the sham issue ads that are used to influence elections without being subject to campaign laws.

I agree with those who say that we must enforce the current campaign finance rules and punish those who have violated those rules. However, the vast majority of reported scandals involve activities by people in both parties that are unethical and offensive to many of us but were not illegal because of the loopholes in our current system.

Virtually all of the scandals that have been reported in the press involve soft money or issue advocacy, which are exempt from most campaign finance laws. The Shays-Meehan amendment simply states that campaign activities of political parties and independent organizations should be subject to the same rules that apply to candidates for office.

Under current law, the individuals who are engaged in unethical behavior in raising soft money or running issue ad campaigns in 1996 will not face any penalties because they are not covered by any laws. If Shays-Meehan had been the law of the land in 1996, these individuals would be punished, as they should be.

One of the provisions I feel the most strongly about in this amendment is placing greater accountability on spending by independent organizations to influence campaigns. The Shays-Meehan amendment states that any independent expenditure made in connection with a congressional election would be subject to other regular current campaign finance laws and disclosure requirements, anyone making an independent expenditure of more than $10,000, if those communications include the name, likeness, or representation of a candidate for federal public office. These reports must be filed electronically with the FEC and posted on the Internet so citizens can find out and learn who is paying for the political ads. What could possibly be wrong with that?

The Annenberg Public Policy Center compiled an archive of 107 issue advocacy advertisements that aired during the 1996 election cycle sponsored by 27 different organizations, both liberal and conservative. While this Policy Center's report does not speak out in support of or opposed to issue advocacy, their research shows just how much these advertisements look like regular campaign commercials and how much impact their one-sided information had on voters.

While promoters of these ads claim that they are simply educating the public, more often they are stealth attacks designed more to keep the public in the dark about the full story of an issue.

The issue ad loophole in current law makes it possible for foreign governments or other foreigners to influence American elections by setting up a front organization that runs issue ads attacking candidates who do not support the interest of that foreign government. Under current law, the voters who see those ads would never know that that money to run those ads came from foreign interests. I believe that my constituents deserve to know if foreign entities are running ads in my district.

I strongly support the right of any group to express whatever views they have about me or any other candidates for office. However, I believe that the public deserves to know who is trying to influence those elections. Full disclosure is needed to allow the public to make their own judgments about advertisements run by independent organizations.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. STENHOLM) has expired.

(By unanimous consent, Mr. STENHOLM was allowed to proceed for 2 additional minutes.)

Mr. STENHOLM. Mr. Chairman, contrary to claims by some organizations opposing campaign finance reform legislation, the Shays-Meehan amendment would not prevent independent organizations from running advertisements or prohibit these groups from using the name of a Member of Congress or any other candidate in that advertisement prior to an election.

I strongly support that. I do not mind any organization running anything, any individual running anything for my opponent in this year or in any other year. But I do believe my constituents that I represent have the right to know who it is that is spending the money in the 17th District of Texas, and then we will welcome that in the field of free speech and debate under all of the First Amendment rights and privileges that all of us find so dear.

Under the Shays-Meehan amendment, any independent group can run advertisements expressing any opinion it wants at any time during a campaign so long as it complies with the standards of accountability and openness that apply to other political advertisements. I heard an earlier speaker today talking about that was un-American. I do not understand for a moment how that can be.

All we are talking about is making sure that freedom of speech means just that and that the people have a right to know who it is that is having the freedom of speech.

I am standing in the well. Everyone watching in our offices and here know who I am, what I am saying. It is coming from me. I think the same should be true for any political advertisement run by any group on either side of the aisle. We ought to know who is behind it.

It is not a partisan matter. I appreciate the tenure of many of my colleagues on both sides of the aisle who are serious about this. And I hope we will cut through the chaff and get down to the meat of this issue.

Candidates from both parties both benefit from and are hurt by these advertisements. Our Nation's important free speech should not be minimized, but it should be balanced by honesty and accountability.

Vote for the Shays-Meehan amendment to bring honesty and accountability into all aspects of campaign finance.

AMENDMENT NO. 132 OFFERED BY MR. THOMAS TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. THOMAS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

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

Amendment No. 132 offered by Mr. THOMAS to Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

Amend section 601 to read as follows (and conform the table of contents accordingly):

SEC. 601. NONSEVERABILITY OF PROVISIONS.

If any provision of this Act or any amendment made by this Act, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this Act or any amendment made by this Act shall be treated as invalid.

In the heading for title VI, strike "**SEVERABILITY**" and insert "**NONSEVERABILITY**" (and conform the table of contents accordingly).

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

Mr. THOMAS. Mr. Chairman, I asked to offer this amendment. As I said during general debate, this will be offered to any major substitute that has a severability clause. I talked earlier about the fact that when the first Federal Election Campaign Act was passed, Congress took a comprehensive approach to campaign reform.

When the Court reviewed it, they struck as unconstitutional portions of the plan. There really is no constitutional basis for the Court having the ability to impose its will on any other branch. They are supposed to be coequal branches. Our oath to the Constitution is not inferior to the Supreme Court's.

Notwithstanding that historical relationship, 25 years later, the portions that were struck down by the Court are simply null and void.

We have before us the first example of a number of comprehensive bills which contain a number of provisions that desire to go after certain behavior.

The Court has been on record in some areas, especially where political parties operate as an independent expenditure rather than as a party. If it is soft money the Court has said, and the most recent court example would be Colorado v. The Republican Party in which the Court upheld the right of the party to follow this model. And this particular legislation tries to correct that.

Issue advocacy is now a strong point, and there is an attempt to change the relationship that the Court has advocated in issue advocacy. I believe that we could try to test the Court to see if they would now hold constitutional a provision that they have held unconstitutional in the past. My belief is we would run that risk and lose.

It seems to me far more prudent that on any bill that contains multiple provisions which the Court could rule on that if Congress wants to retain control of campaign law, what we ought to say is that if someone takes the law to court and they beat a piece of it, then the entire law falls. What happens? We come back and rewrite a law.

The folks who do not want this amendment that I am offering, the nonseverability, the folks who want to be able to say, notwithstanding a piece of the law falling, all the rest of it stands, will tell us this, "we will come back and fix that piece."

I am here to tell my colleagues that, as a product of 25 years of labor to try to change the pieces that the Court changed, it is not nearly as easy as that.

What we have had for 25 years is a piecemeal law that does not work in many instances. We are here tonight and will be here over the next several weeks because what the Court did does not work. Why in the world would we repeat the same mistake again?

This amendment will be offered to every comprehensive substitute that has a severability clause. Does it mean that I am a masochist, does it mean that I am trying to defeat the effort to make change? No. What I am trying to do is guarantee Congress retains the ability to make the change, that we do not let the Court make the change.

If my colleagues do not accept my amendment, which is joined by the gentleman from Texas (Mr. FROST), so I can gladly say this is a bipartisan amendment, then what we have been under for the last 25 years is doomed to repeat itself for an open-ended number of years as the Court picks and chooses as to what to declare unconstitutional from a comprehensive bill.

I think that the choice is not a good one in either case: Live under this hodgepodge that the Court was allowed to create because of historical usurpation of a power, or for Congress to come back and rewrite the law in its entirety.

□ 1830

Either one of those are going to be the choices, and I think the far better choice is to say that if a piece falls, it all falls and we come back and rewrite it. That way we know in a given time frame we will be able to produce a product that works. The other way has not worked.

I would urge all my colleagues when we do have a vote on the amendment, that amendment No. 132 sponsored by myself and the gentleman from Texas be accepted and that it be accepted and placed in every substitute that has a severability clause, because I believe, no matter what we do, no matter what the particular provisions are in a measure, Congress ought to retain control of what is campaign finance law. The only way we can retain control is to remove the severability clause that is in the measures.

I would ask Members to support the amendment.

Mr. FROST. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. THOMAS). I happen to have the view that what we are doing here is very serious and that we should treat everything that is done here today as on the level. We should vote for the things that we think are important. And if we feel strongly about a subject, we should vote in favor of it and we should vote as if what we are doing this week and next week actually has a chance to become law, not that we are posturing but that we are looking to the point of if this becomes law, how does it work and what is the best way for it to work.

Mr. Chairman, the issue of nonseverability is one of the highest importance in this debate. In 1976, the Supreme Court ruled in Buckley v. Valeo that the provisions in the Federal Election Campaign Act of 1974 relating to the use of personal funds by a candidate to fund a campaign and on overall campaign expenditures were unconstitutional. The court held that these provisions placed direct and substantial restrictions on the ability of candidates, citizens, and associations to engage in protected first amendment rights.

At the same time, the court upheld the limitations on contributions to candidates. In so doing, the court dismantled a carefully crafted package, each part dependent upon the other to reform the way campaigns were, in the 1970s, financed.

And so, Mr. Chairman, we are left with limits on how much a candidate can receive in contributions, but no limits on what wealthy candidates can spend on their own campaigns, or the total amount that a candidate can spend regardless of source.

That, Mr. Chairman, is how we got to where we are today. In the event that the package proposed by the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) passes, and I intend to vote for it on final passage, in the event that it passes, the court could very well dismantle this package by finding that the ban on soft money or the limitations on groups or individuals making independent expenditures are, in fact, unconstitutional. What we would be left with is another hodgepodge of campaign expenditure limitations that in essence will leave us in the same difficult situation that we find ourselves in today.

Therefore, Mr. Chairman, I support the amendment to add a nonseverability clause to this legislation. A nonseverability clause will ensure that

if one part of Shays-Meehan is found unconstitutional, the whole package will be nullified. There is little reason to pass legislation which may ultimately end up looking like a piece of Swiss cheese. This should be a take or leave it proposition, and addition of the amendment offered by the gentleman from California to this bill will assure that either the whole package or no package will ultimately be the law of the land. To do otherwise risks that we suffer from the law of unintended consequences. We could wind up with the worst provisions of Shays-Meehan with the best provisions of Shays-Meehan being stripped out by the Supreme Court. If we really believe in campaign reform, we should support a package that hangs together, a package where every part of it is necessary for real reform, and we risk being left with only half a package if we do not insert a nonseverability clause.

Mr. Chairman, legislating is serious business. We should assume that the bill we are debating tonight will actually become law. And if it actually becomes law, it will be totally unfair to have this provision remain in part because the Supreme Court strikes down the best portions and leaves us with the worst. I ask that Members vote in favor of the Thomas amendment.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have great admiration for the gentleman from California (Mr. THOMAS). I think his attitude about the separation of function that the Constitution provides between the Congress and the Supreme Court is insightful and that it really ought to be our job to write good laws and then the Supreme Court to uphold or strike them down, rather than to have the Supreme Court pick and choose. So he makes an awfully good case.

I rise, however, to speak against the amendment for two reasons. One is because I think it is important that we have a vote on Shays-Meehan, unamended, that the process once an amendment starts is going to be very hard to prevent from unraveling, and the very best chance that we have of having a vote in the other body is Shays-Meehan. I have my own proposal, I think it is preferable, I am allowed to say that, but it is true that Shays-Meehan/McCain-Feingold has the very best chance to be considered in the other body, and in that context it ought not be amended.

But, secondly, I believe that Shays-Meehan is constitutional, and so I devote the remainder of my time to that subject, in that if it is constitutional in all respects, then severability becomes much less of a concern.

The two aspects of Shays-Meehan/McCain-Feingold that have been criticized are these. First the ban on soft money, and second the distinction between express and issue advocacy. As to the distinction of issue advocacy and express advocacy, those who argue Shays-Meehan is unconstitutional say that it is unconstitutional to consider as express advocacy anything that does not use the so-called magic words "vote for."

We are each entitled, indeed sworn to uphold the Constitution as we best see it by our own lights but if the judgement is to be what would the Supreme Court do, I draw to my colleagues' attention an opinion by the Supreme Court 10 years after Buckley v. Valeo, 10 years after the reference to the magic words, and that was in Massachusetts Citizens for Life in which the Supreme Court dealt with the question of did it have to use the magic words or not. It dealt with an edition of a flier that listed individual candidates.

The Supreme Court said:

> The Edition cannot be regarded as a mere discussion of public issues that by their nature raise the names of certain politicians. Rather, it provides in effect an explicit directive: vote for these named candidates.

So the Supreme Court 10 years after Buckley was clearly departing from the magic words test and was saying it is the effect of the communication, the effect of saying in this context these things about these candidates was to say vote for them. And so it was the effect rather than the presence of the magic words that was determinative.

The approach taken by Shays-Meehan is precisely that, suggesting or holding as matter of law that communications to the electorate using the name of a candidate or his or her picture in the last 60 days is, in effect, saying vote for or against that candidate. It is certainly within the first amendment to do so in my interpretation, far more importantly in the Supreme Court's interpretation as of 1986, 10 years after Buckley v. Valeo.

Second and last, the other component of the critics of the constitutionality of Shays-Meehan that is most commonly heard is the ban on the soft money. But the Supreme Court has also ruled on this in California Medical Association v. FEC in 1981. The Supreme Court upheld the limitation of $5,000 on contributions to PACs. Their argument was that if it was constitutional to have a limit of $1,000 on how much individuals could be contributing to a campaign, and yet $5,000 for a PAC, the purpose of avoiding corruption could be evaded by a wealthy individual or a person of influence giving the money to a PAC knowing that it would get to the benefit of the candidate. And so the Supreme Court held in California Medical Association v. FEC that the $5,000 limit on contributions to multicandidate PACs was constitutional. Well, so also here.

In order to avoid the evasion of the fundamental purpose of the $1,000 contribution, a donor could conceivably give the money to a political party and then, using the way the Supreme Court has interpreted the rules on soft money, know very well that that political party would get that money to the effective use of that candidate. And this is in reality. There are many instances that we know where it has been used in exactly that manner.

Accordingly, with those two explanations, it is my conclusion that there is nothing unconstitutional in Shays-Meehan and severability is not an issue, and, hence, I would not urge support of the Thomas amendment.

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

Mr. CAMPBELL. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. I thank the gentleman for yielding. All of us certainly admire and respect the gentleman's legal analysis. I want to read to the gentleman from page 249 of the Massachusetts case that he cited.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from California (Mr. CAMPBELL) has expired.

(On request of Mrs. NORTHUP, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. CAMPBELL. I continue to yield to the gentleman from Kentucky.

Mr. WHITFIELD. "Buckley adopted the 'express advocacy' requirement to distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons. We therefore concluded in that case that a finding of 'express advocacy' depended upon the use of language such as 'vote for,' 'elect,' 'support,' et cetera. Just such an exhortation appears in the 'Special Edition' in this case. The publication not only urges voters to vote for 'pro-life' candidates, but also identifies and provides photographs of specific candidates fitting that description."

So it seems to me in this case, they are definitely verifying and accepting the definition of express advocacy as set out in Buckley.

Mr. CAMPBELL. I appreciate the gentleman's intervention, and I return the compliment. He is also a scholar. I certainly respect his point of view. But recognize that the Supreme Court's holding in the Massachusetts Citizens for Life case was the intent, was the purpose of the communication, not the magic words. I emphasize the exact quotation that the gentleman gave me, the words "such as," not the "words" but "words such as."

Indeed, I was going to quote from Buckley myself at 424 U.S. at 44, note 52, the Supreme Court says, before giving the magic words, "such as." And so the test is not the presence of the actual words but whether the purpose and effect in context is to urge the election of an individual. It was the case in Massachusetts Citizens for Life, and so

also it could be the case even if no specific magic word is present.

Mr. WHITFIELD. This says, "Just such an exhortation." It says, "Rather, it provides in effect an explicit directive: vote for these candidates." And that is the bright line test.

Mr. CAMPBELL. Mr. Chairman, I think it is probably time for me to conclude, although I will be pleased to yield to the gentleman from California.

I will just make one last point. The holding of Massachusetts Citizens for Life was intent and effect in the context.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. CAMPBELL) has again expired.

(On request of Mr. DOOLITTLE, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. CAMPBELL. Mr. Chairman, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I was just concerned. It is clear to me, reading the law, that you have to have words of express advocacy. I just wanted to make sure that it was the gentleman's understanding, my colleague from California, that we were not dealing with some reasonable person test or anything of that kind. There is a magic word. It has to be a word of express advocacy. It may not be the seven magic words, whatever the number that was actually enumerated in Buckley. But I think the law is quite clear. It has to be a term of express advocacy. Does the gentleman disagree with that?

Mr. CAMPBELL. I do. Once more, though, it is important to begin by an expression of respect. I do not doubt that my colleague from California is a careful student of the law. But the holding in Massachusetts Citizens for Life, and I am going to recur to the exact quote I used was, "The Edition cannot be regarded as a mere discussion of public issues that by their nature raise the names of certain politicians. Rather, it provides in effect an explicit directive."

So the distinction the court appeared to be directing its attention to was, you have over here a mere discussion of public issues, and you have over here what is in effect a directive. The turning of the logic is not on the use of the words. It is on, is this a discussion of public issues or is it a directive to vote? And so under that interpretation, I think it is quite fair to say that the inclusion of names that close to an election is a directive to vote.

Mr. DOOLITTLE. Mr. Chairman, I respectfully disagree with the gentleman's interpretation. I think that is not what the law says. The Supreme Court in Buckley has spoken and has reaffirmed as recently as Colorado and all the cases as far as I know that makes quite clear that we have to have a bright line. Because we do have that little phrase in the Constitution that says, "Congress shall make no law abridging the freedom of speech."

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

□ 1845

Mr. Chairman, I rise in opposition to this amendment. I think this last discussion gives a good reason why we should oppose this amendment.

Mr. Chairman, we cannot anticipate what a court will do. The way that this nonseverability amendment is written, it is so broadly written that if the Court made any significant changes, any changes at all, it could jeopardize other provisions in this bill, it could jeopardize the bill itself. It may not strike at what the author is trying to do by linking certain provisions of the bill together, but because of the way the amendment is written, it is very possible that we could jeopardize what we are trying to do here in getting enacted the Shays-Meehan bill. It also compromises the coalition that has been put together in an effort to make the first steps to meaningful campaign finance reform.

So for all those reasons on the merits I would hope that my colleagues would reject this amendment.

One problem that we have is that there are 435 experts in this body on campaign finance reform, but we are all experts in our own congressional districts, and we do not appreciate that we need to legislate that will affect all 435 of the districts, and we are going to be hearing some amendments that are going to be coming forward that are well-intended, that we think we have to package everything together or add additional provisions to this in order to make Shays-Meehan better. But the one thing that I would hope all could agree on is that Shays-Meehan is a good first step to campaign finance reform, and if we are interested in changing the current system, then we should resist amendments that jeopardize our ability to get Shays-Meehan passed in this body and the other body.

Mr. Chairman, it does deal with some major issues that are out there that my constituents, indeed I think all of our constituents, are asking us to deal with in campaign finance reform, and that deals with the use of soft money by our political parties where millions of dollars are being contributed basically without accountability and are being used to influence elections even though they are not supposed to be, and issue advocacy which we just heard the debate on which is clearly aimed at influencing elections and yet does not have the accountability of moneys being reported or spent according to election law.

So for all those reasons we have a chance to do something with the underlying bill that is before us in Shays-Meehan. The amendment that is being offered would jeopardize that because it turns over to the courts the ability to throw out this entire legislation even though there may be a minor issue that the Court may have disagreement with us on. It jeopardizes the work of what we have been able to do.

Mr. Chairman, I would urge my colleagues to reject the amendment.

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

Mr. CARDIN. I yield to my friend from California.

Mr. THOMAS. Mr. Chairman, I think the points the gentleman from Maryland (Mr. CARDIN) made in opposition to the amendment are exactly the reasons why I think the amendment needs to be supported, and the gentleman from Texas concurs.

First of all, the Court does not make constitutional decisions on minor provisions. I think my colleagues will find that the Court makes decisions on major provisions.

Mr. CARDIN. Reclaiming my time, Mr. Chairman, on that point I would say that is a matter in the eye of the beholder.

Mr. THOMAS. Exactly.

Mr. CARDIN. I have found some decisions made by our Court that leaves an awful lot to be desired, and it could very well deal with a minor provision here affecting it that would throw out the entire bill the way this amendment is drafted.

Mr. THOMAS. And if the gentleman would continue to yield?

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

Mr. THOMAS. What the gentleman is asking is the same position the gentleman from California (Mr. CAMPBELL) my friend asked, and that was that we should rely on expertise first of all—

Mr. CARDIN. Reclaiming my time, just the reverse. Almost every bill that we passed through this Chamber we put a severability clause intentionally in because we know that we can never anticipate what a court will do. We are the legislative body. Theirs is the judicial body. They have their responsibility. I do not claim to be the Justice in the Supreme Court, and they may do things that I disagree with. We put a severability clause in so that we can preserve our product in the case a court decides to strike part of it down.

Mr. THOMAS. And if the gentleman would yield, that is exactly what happened in the 1970s when we did not preserve the product. We created a law which did not work, and for 25 years we have not been able to make it work.

What we are trying to do, and I hope the gentleman understands the intent because it will be applied to every bill that has severability. Not all of the bills have severability. Some of the authors are willing not to include severability. The intent is to make sure that

what Congress intended in fact occurs. If we have a severability clause, we are betting the Court either believes it is all constitutional or they will only pick out a minor portion. I think the gentleman will find it will not be a major portion, it will be a minor portion, and we are right back in the box of unintended consequences.

Mr. CARDIN. Reclaiming my time, we need to make progress wherever we can make progress, and if we can get through this Chamber and the other Chamber, signed by the President and through the courts, we need to take whatever progress we can, and enacting this amendment jeopardizes it.

Mr. THOMAS. Mr. Chairman, I will tell the gentleman, if he will yield, hodgepodge is not advancing the cause.

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

It is interesting to hear the lawyers debate what the courts might do. The fact is there is clearly concern that there are portions of this bill that are not constitutional. In fact, it is clear by the resistance of the people that oppose this amendment that they fully expect that the courts are probably going to strike down a portion of the bill. If they did not expect that, they would join us, and they would support the clause that says if part of the bill goes down, it all goes down.

The aggravating part of this is that the very sponsors of this bill have sent out to the Members of this body a bill, a letter, a dear colleague letter bragging about the fact that this is a balanced approach, that we should support Shays-Meehan because it is balanced, and they go on to explain why it is balanced.

So, if they are not supporting this amendment that says it either all stands or it all falls, what they are saying is we do not care if it is balanced, we do not care in the end if what we get is an unbalanced product, we still like it.

The fact is that they would like to call this campaign finance reform. I do not believe that is a correct term because reform means better, and I think what we got is something far worse. It is a change, it is a change in how campaigns will be conducted, it will be a change in who can speak and who cannot speak. But what it will do will not be better because it will force people who want to speak about elections, people that want to talk to the voters, and the voters that wish information, they will now have less information. They will have information from Citizens for a Better Democracy or citizens who like this democracy, and they will have no idea who put money in and how the money is being spent and what their ultimate motives are.

But the point is that they are saying that this bill is balanced, and then they tell us, if it ends up that only portions of it are constitutional, that that is okay with them, too. So why do they not say they do not care whether it is balanced or not? They like the bill.

Mr. Chairman, this body should support this amendment and make sure that what has been purported to us, that having balance is important, actually sticks with the bill in case it ever goes anywhere. In the meantime the rest of us should worry a lot that there will be some groups who may be able to speak and some groups that will not be able to speak. That is exactly what starts happening when we start talking about free speech and who can participate in elections. We start deciding who has speech and who does not have speech, and that is why the courts strike it down, that is why they will strike part of this down, that is why they may strike it all down. But to tell us that it is balanced and then say we should pass it and they do not care if it is balanced because they oppose this amendment is flat wrong. It absolutely cheats the American people of being able to have the whole story, the whole truth, the whole message, free speech.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Mrs. NORTHUP. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentlewoman from Kentucky's remarks, and she is dead on, and if I could just take a moment to complement what she just said, although I am certainly not as eloquent as the gentlewoman is.

This is so important, and I wish we could do this all day and all night and every day because frankly this is a good debate to be having. It is one of the few debates in the long time I have been here that we are actually having, and frankly it is why most of us came here.

But in particular this amendment is vitally important because when we talk about campaign financing and campaign laws, mostly it is all sort of intertwined and related in one way or another. It is also we have a little problem with one group having an advantage over another group; that is why we have such a problem in the kinds of laws, FEC laws in 1974 that were totally written to protect the incumbents, and we all know that in fact that is why most of it was struck down by the courts. And so when we start regulating, we are picking winners and losers. Just like we would be regulating reforms or regulating anything else, we are picking winners and losers, and we are taking advantage based on who may have the votes.

But throughout the debate on this particular bill the proponents of Shays-Meehan have assured us throughout the debates that we already had in press releases and everything else that there are no constitutional problems with their proposal. Their curbs on speech in violation of the First Amendment have the Good Housekeeping seal of approval, or so they say. This amendment would give them a chance to put their money where their mouth is.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentlewoman from Kentucky (Mrs. NORTHUP) has expired.

(By unanimous consent, Mrs. NORTHUP was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Mrs. NORTHUP. I yield to the gentleman from Texas.

Mr. DELAY. If my colleagues think this is overreaching and what I think is a repressive piece of legislation will pass constitutional muster, well, then fine. Then they will have no problem with an amendment that will take the whole bill down if just part of it is declared unconstitutional. This amendment is a nonseverability clause. It would provide that if a portion of the bill is declared unconstitutional, the entire bill is null and void.

Now while the courts have not always regarded themselves as bound by severability clauses or the lack thereof, I think this amendment would serve as a powerful impetus for this bill to be upheld or overturned as a whole. Take, for example, what I think is a ridiculous and overdrawn provision dealing with the express advocacy clause. No one who has given this provision serious thought expects it to pass constitutional muster. Basically it would require an organization to report to government bureaucrats whether their campaign operation is an implicit advocacy of election or defeat of a candidate. The money spent to make these statements would be classified as political expenditures for the purposes of Federal election laws.

Well, the problem is that most legislative advocacy groups are prohibited by law from making political expenditures and by classifying legislative advocacy as such Congress may well outlaw their statements in the very unlikely event this provision is upheld by the Court. So characterizations of an office holder's vote as pro-life, or pro-choice, or anti-gun might therefore be illegal. Well, there may be office holders who relish the prospect of being insulated from criticism on their legislative provisions, but I hope there is very few of us in this Chamber that would relish such a thing.

The CHAIRMAN pro tempore. The time of the gentlewoman from Kentucky (Mrs. NORTHUP) has expired.

Mr. DELAY. Mr. Chairman, I ask unanimous consent that the gentlewoman be granted an additional 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SHAYS. Reserving the right to object, Mr. Chairman, I just would like to have some definition. Is the gentleman asking to strike the requisite number of words and use 5 minutes, or he is just asking unanimous consent to take 5 minutes and not strike the requisite number of words? I am just curious to know what he asked for.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, I think I am the one that has the floor, and I want to ask unanimous consent for five additional minutes.

Mr. SHAYS. No, I would object to that. There are people who are waiting to have 5 minutes, and I do not object to the gentleman asking to strike the requisite number of words and have 5 minutes, but there are people who are waiting to have time to speak, and the gentlewoman has already had 7 minutes.

Mr. Chairman, I just need to know what the process is. The gentlewoman had 5 minutes, and we extended 2 more minutes.

The CHAIRMAN pro tempore. Is the gentleman from Connecticut reserving the right to object?

Mr. SHAYS. I am reserving the right to object, Mr. Chairman, and ask this question: I am asking if the gentleman is asking to strike the requisite number of words and use his 5 minutes. Could I request that the gentleman strike the requisite number of words and we can proceed that way?

The CHAIRMAN pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. HEFNER. Reserving the right to object, Mr. Chairman, and I do not intend to object, but I would like to ask a question since I am probably not going to get any time and since my good friend from Texas (Mr. DELAY) is talking about the First Amendment. Let me ask the question, not being a lawyer:

These advocacy groups, and we get a mailing in the mail that does not have anybody that claims title to it, it just comes in the mail to Mr. and Mrs. Whoever, and they advocate something, but there is no return address, there is no name on it.

The CHAIRMAN pro tempore. Is there an objection to the request of the gentleman from Texas (Mr. DELAY)?

□ 1900

The gentleman from North Carolina (Mr. HEFNER) has reserved the right to object.

Mr. HEFNER. Mr. Chairman, I reserve the right to object.

The CHAIRMAN pro tempore. Would the gentleman from North Carolina (Mr. HEFNER) speak to that point please?

Mr. HEFNER. Well, I guess I reserve the right to object to try to get some kind of order here as to how much time is being allotted, because with all due respect, this is going to be kind of a filibuster of one opinion.

Mrs. NORTHUP. Mr. Chairman, I can clarify my request, just to allow the gentleman to finish.

The CHAIRMAN pro tempore. Would the gentlewoman suspend?

Has the gentleman from North Carolina completed his reservation?

Mr. HEFNER. No, I have not, Mr. Chairman.

Mrs. NORTHUP. Mr. Chairman, I control the time here.

Mr. WEYGAND. Point of order, Mr. Chairman.

Mrs. NORTHUP. Mr. Chairman, I would just like to ask that the gentleman be allowed to ask the question of the gentleman from Texas (Mr. DELAY).

POINT OF ORDER

Mr. WEYGAND. Mr. Chairman, point of order. Please clarify my understanding that, right now, the Chair has denied the gentlewoman who has asked for an additional 5 minutes with unanimous consent. That has not been granted as of right now, so she does not control the time that is before us right now.

The CHAIRMAN pro tempore. The request of the gentleman from Texas that the gentlewoman from Kentucky (Mrs. NORTHUP) have 5 additional minutes is still pending.

Mr. WEYGAND. Therefore, Mr. Chairman, I object to it until we have a clarification from the whip, which I would love to have, about the procedure as to how we are going to proceed with time. There are many people here that would like to strike the last word, and we do not disagree with having the whip take the time that he needs, but if this is going to be continuous, we have an objection to it.

The CHAIRMAN pro tempore. Is the gentleman from Rhode Island objecting?

Mr. WEYGAND. Yes, I am, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Mr. DELAY. Mr. Chairman.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. DELAY).

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

Mr. HEFNER. Mr. Chairman, will the gentleman yield for a question?

Mr. DELAY. Your side objected and I will not yield.

This is just unbelievable. This is going to be a very long debate, I have to tell my colleagues. This is going to be a very long debate, and if my colleagues want to stifle debate and open discussion, then do so. You tried to stifle debate.

Mr. HEFNER. Mr. Chairman, would the gentleman yield?

Mr. DELAY. Regular order, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. DELAY) controls the time.

Mr. DELAY. I thank the Chairman.

Mr. Chairman, the Democrat side once again objected to an open discussion that we were having that we asked to extend one time and then a second time, again.

Now, my colleagues cannot have it both ways. First, my colleagues ask for open and honest debate, many vote "present," do not want to participate in a debate that they have been demanding for over a year; and it just amazes me that because they do not want one particular person to be speaking or to extend the time for a short period of time, because they may be inconvenienced and they have been standing there for all of 7 minutes, they want to stifle debate and stifle discussion.

Well, fine. We can operate that way. And if my colleagues on the other side of the aisle do not want to show their colleagues courtesy, then we will operate that way.

Now, Mr. Chairman, if I could finish my statement, that I was attempting to make before I was so rudely interrupted by those that would like to stifle debate and do not want open and honest debate, we are seeing the true colors right now, what has been going on for quite a while.

So in order to try to regain where I was headed, I am just trying to say that the Shays-Meehan amendment substitute may well have the practical effect of insulating Congress from criticism, and this is the kind of thing they want to happen. They do not want to be criticized. They do not want issue advocacy groups out there criticizing their votes; they want to hide it by regulating free speech. That is what this is all about.

If the First Amendment does not prohibit this sort of abomination, exactly what does rise to the level of its scrutiny? So the severability amendment before us would put this challenge to the draftsmen of the Shays-Meehan gems such as this.

To those proponents of Shays-Meehan, I would say this. If you believe your bill is constitutional, you should have no problem allowing it to rise or fall as a whole. If you do not believe your bill is constitutional, what exactly did you mean when you took your oath of office to uphold and defend the Constitution of the United States?

And to the Members of this body I would just say, if you believe that the Bill of Rights is a crapshoot where Congress has no responsibility for the constitutionality or unconstitutionality of the bills that it enacts, do not vote for the severability amendment. If you believe that squashing legislative advocacy groups is so important that it overrides your oath of office, then do

not vote for this severability amendment. If you believe in cases of constitutional doubt that the presumption should lie against the Bill of Rights, do not vote for this amendment.

If you believe it is a sound practice to enact legislative wads of constitutional scraps in the hope that perhaps the Supreme Court may have a bad day when it adjudicates your bill, do not vote for this amendment.

On the other hand, if you believe, like I do, that the First Amendment was intended to protect, above all, the marketplace of political and legislative ideas, then we welcome your voice and your vote. But if you believe, like me, that it is a travesty to use the legislative process to attempt to shut down political opposition, as exhibited on the floor already tonight, then we welcome your vote and your voice. And if you believe, like me, that the First Amendment is at the core, about the vibrancy of political, legislative and philosophical debate, debate which would be gravely threatened by this misbegotten bill, then we would welcome your voice and your vote.

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

Mr. Chairman, I am sorry if I angered my good friend from Texas, but I wanted desperately to ask the question, since I did not have the time.

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

Mr. HEFNER. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I just wanted to point out, before the gentleman from Texas (Mr. DELAY) leaves, that the first bill in the Contract With America, the congressional accountability bill which he advocated and supported and took pleasure in signing, had a severability clause.

Mr. HEFNER. Mr. Chairman, reclaiming my time, the gentleman from Texas (Mr. DELAY) is gone.

Mr. Chairman, I have an awful lot of respect for the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) and the folks that have worked so hard for campaign reform.

We are awfully selective around here. I have been here for 24 years, and I have never seen a Committee on Rules that operates like this Committee on Rules does now. The other day, not a week ago, we considered a budget that is absolutely going nowhere, it is a total disaster, and they ignored Members offering a budget that possibly could have passed. But they were not entitled to offer that budget.

Now, here they are, they are allowing over 200 amendments and many of them are not germane. We are not the United States Senate, we have to have germaneness here. But the Committee on Rules says, we will waive all points of order and we can just go ahead and offer those amendments.

We talk about the First Amendment, and some of these people would seem to think that it is okay if some advocacy group sends out a letter or a postcard that says, if you vote for BILL HEFNER and Mike Dukakis, which happened in my election, there is no disclaimer on it, you do not know where it came from, and you say, if you shut that down, that is not violating their First Amendment rights. They have no rights if there is no entity out there that claims that they are responsible for that.

Mr. Chairman, I think that what this is is a sham to kill campaign reform. I do not understand the leadership on that side. If they want to kill campaign reform, put them together, one bill with everything they want in it, and take it and go one-on-one with the Shays-Meehan bill. But to say that we are cutting First Amendment speech is totally ridiculous and, to me, it is the first time in my 24 years that I have been in this House that the Committee on Rules is writing legislation and bringing it to this floor, and I think it is a travesty. I do not think it speaks well for this House, and I do not think it is going to solve the problems of this country.

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

Mr. HEFNER. I yield to the gentleman from Colorado.

Mr. MCINNIS. Mr. Chairman, let me say to the gentleman, I am a little surprised by the gentleman's remarks on the Committee on Rules. I am on the Committee on Rules, and about 2 hours ago the gentleman from North Carolina (Mr. HEFNER) was in front of the Committee on Rules and they were speaking about retirement, and the gentleman certainly did not address the chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON) with the remarks that the gentleman is now addressing here. Of course, the gentleman from New York (Mr. SOLOMON) is not here.

Mr. HEFNER. Mr. Chairman, reclaiming my time, there was no reason to; we were not debating campaign reform. But if the gentleman from New York (Mr. SOLOMON) were here in this building, I would tell him that he is running a travesty, and he is running a dictatorial type of Committee on Rules, and he is writing the legislation of what comes before this House, and he is doing it with an overriding hand.

Nobody has any rights. The Committee on Rules is writing the legislation that comes to this House, make no mistake about it. The Committee on Rules is the Speaker's committee. He is absolutely telling the Committee on Rules, here is what you do, there is no deviation from it, and you bring it to the floor here; and that, to me, is not the way. You are just absolutely bypassing the legislative process, and that is not right.

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

Mr. Chairman, to the gentleman I would just say that I am just amazed, because the gentleman is taking an entirely different approach than the gentleman did just 2 hours ago when he was sitting in front of the Committee on Rules and he was complimentary and the Committee was complimentary of the gentleman. I have great compliments for the gentleman's service.

The other point I want to make here, and I heard it today earlier from the gentleman from Michigan, everything is fine with the Committee on Rules as long as it satisfies you personally, but the minute somebody else wants to offer an amendment to debate, all of a sudden this Committee on Rules is the most horrible committee in 24 years.

There are 200-and-some amendments. This campaign reform is one of the most significant pieces of legislation that has come onto this floor. The Committee on Rules said, wait a second, we think that because there is such a divisive feeling about this, a lot of people ought to be offered the opportunity to offer their amendments.

From that side of the aisle, I listened to the gentleman from Michigan earlier today, I listened to you. This is the gentleman's side of the aisle that is always complaining about the Committee on Rules never lets us offer amendments; the Committee on Rules never lets us offer amendments; the Committee on Rules never lets us offer amendments. It is a dictatorship; they just shut it off.

So when we offer the amendments, you are down here the next day saying, the Committee on Rules offers too many amendments; the Committee on Rules offers too many amendments. We are never going to make you happy.

Let me just say, especially based on the words I heard today, I am just very surprised by the comments of the gentleman from North Carolina (Mr. HEFNER).

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

Mr. MCINNIS. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, I do not understand what the connection is. I have no squawks with the Committee on Rules today. The gentleman from California (Mr. PACKARD), who is a very good friend, we did not offer waivers to nongermane amendments, and I am sorry if I neglected to congratulate the Committee on Rules, but I am not going to do that because I do not appreciate the work that the Committee on Rules is doing. It is no personal thing, but I do not appreciate it. But I do not see what the connection is about me being before the Committee on Rules. We just wanted to expedite it and get out of there.

Mr. MCINNIS. Mr. Chairman, reclaiming my time, let me say that the

gentleman's remarks, if he takes a look at them in the transcript, he will find that they are very broad, not limited specifically to this bill: "24 years, we have never seen a committee run like this committee."

Two weeks ago with the budget, they did not do this. I tell my colleague, if the chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON) were standing right here, the gentleman and I both know the gentleman from New York, he would be red in the face.

Mr. HEFNER. Mr. Chairman, call the gentleman from New York (Mr. SOLOMON).

Mr. MCINNIS. Mr. Chairman, again reclaiming my time, I hope that the gentleman from New York (Mr. SOLOMON) has the opportunity.

Now, let us focus on this other bill and the importance of that issue.

It is like going to a car dealership and, frankly, you people want to sell us a car. You say, all right, tell me about the car. It is a great car. What happens once I buy the car and I get out, what if a key part of the car, the motor does not work? Can I bring the car back? Oh, no, no, no. You take the car.

If a key part of it, i.e., just like in a bill, if a key part of it is unconstitutional, you still have to take the bill. That is what you are saying to us.

I think that the whip brought up a very good point. This is a very complicated piece of legislation. It is very "intertwined," I think was the word that was used by the whip. One part depends upon the other part that depends upon this part. It is just like in the car. The car has lots of parts that depend on that motor, and the motor has lots inside it that depend on the fuel and other parts.

So what we are saying is, wait a minute. Either this car is good enough that you are saying to me if it breaks we will give you another car, if the motor goes out. That is what we are asking here.

□ 1915

We are saying if our colleagues are so confident about this bill, then if a key part of the bill is found unconstitutional, which all of them deny it is, they are all saying it is very constitutional and this is constitutional to do this, this is constitutional to do that, I say back it up. Support.

What we are saying is if it is not, let us bring it back to the drawing board. Bring the car back to the garage. Do not say to the buyer of the car, "Sorry. The motor broke, but we do not allow that. You are going to have to keep this car." We are saying bring it back. That is a pretty logical request to make.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Colorado (Mr. MCINNIS) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. MCINNIS was allowed to proceed for 2 additional minutes.)

Ms. RIVERS. Mr. Chairman, will the gentleman yield?

Mr. MCINNIS. I yield to the gentlewoman from Michigan.

Ms. RIVERS. Mr. Chairman, I wanted to make sure the gentleman understood this issue in context. The argument seems to be that only people who are concerned about the constitutionality of their bill would disagree to a nonseverability clause. But a very quick review of legislation in this Congress finds, as best I can tell, only four bills, only four bills that had been printed and distributed without a severability clause.

Mr. Chairman, I also find that if we are concerned that people who promote the idea of having a severability clause really are not clear about the constitutionality, I find that the gentleman from Florida (Mr. CANADY), who is the chair of the Subcommittee on the Constitution, put a severability clause in his Religious Liberties Protection Act. And the gentlewoman from Kentucky, who has argued this very vigorously who was an original cosponsor of House Resolution 456 for drug testing, also put a severability clause.

So if there are only four, why are we suddenly directing all of this wrath?

Mr. MCINNIS. Mr. Chairman, reclaiming my time, I do not disagree point blank or broadly against severability. I think it is appropriate. But let me say that it is the gentlewoman from Michigan (Ms. RIVERS) and individuals such as the gentlewoman, that are saying to the country out there: This is absolutely constitutional. This is not a breach of the freedom of speech. This campaign reform, do not let anybody divert attention by saying it is unconstitutional. It is constitutional.

What happens is the gentlewoman then gets out there, saddles this thing on a lot of people, and I frankly believe parts of it are unconstitutional. But until it gets to the Supreme Court, my colleagues are able to squash the constitutional rights on something that you are going across the country, and I say "you" generically, that that side that is supporting this, the Democrats are going across the country guaranteeing everybody this is constitutional.

They criticize us. Every time that I have said about this bill I think there are some unconstitutional provision, I get criticisms. Why do I dare question the constitutionality?

Mr. Chairman, my point is this. If the gentlewoman would criticize me for questioning the constitutionality, then she should back up her product.

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

Mr. Chairman, I would like to try to get back to the substance of the bill that is before us and the amendment that is before us.

Mr. Chairman, it is interesting, the debate that we have had. The majority whip came up and talked very eloquently about the problems that he foresees with the perception that he believes that we are trying to bring to the American public. But let me tell my colleagues, I do not think any of us on this side of the aisle or that side of the aisle think that the Congress is perfect.

When we first set up this great assembly and this great body and this country, we recognized that there may be errors made by this Congress and we have a system called a Court which reviews those errors.

So if the public is watching out there, if we make a mistake in a piece of legislation, whether it be a comma, whether it be a substantial piece that may be unconstitutional, we have always, almost religiously included a severability clause. Almost every general assembly across this country does exactly the same thing, because of the check and balance system that we have before us makes sure that at least we can get part of the bill if not all of it.

Some of the comments this evening are that we have for some reason said that the Shays-Meehan bill is perfect. Well, the Shays-Meehan bill really addresses an original or substantive part of campaign finance reform and attaches to that statute many different pieces, addresses different parts. Soft money, a number of other things besides soft money, with disclosure.

Mr. Chairman, each one of those things are important elements to campaign finance reform. By themselves, they may not be as important as the whole. But individually they are important. And if one part of that happens to be unconstitutional, I am not so proud, nor do I think any of our other Members here are so proud, to say that it is without doubt we are absolutely perfect and that we should not think at all that any piece is unconstitutional.

But take a look at what we are really trying to do. Shays-Meehan is trying to correct one of the most egregious problems of campaigns today and that is the issue of soft money. We all on both sides of the aisle take political action committee money, or most people do. We all have caps on those and we have many other wealthy people or poor people who contribute to our campaigns. But one of the most difficult things for the general public, who is most important in this discussion, is they do not understand how these issue advocacy ads and thousands and millions of dollars are going in to campaigns without disclosure, without one person understanding or knowing where it is coming from, yet having a great impact on how campaigns are determined.

But more importantly, as I stated yesterday and last night, the whole issue of this body is to have people that have their finger on the pulse of America. The pulse of the people is what we are supposed to be monitoring and be a barometer of.

So often we try, and both sides are out there trying to scoop up as much money as we possibly can to get out there and talk about the issues that we think are the most important. But the average American finds it very difficult to run in a campaign when, in fact, there is so much additional money besides what we presently have limits on, political action committee money or additional contributions.

Shays-Meehan makes a dramatic attempt to correct that. It may not be everything we want in campaign finance reform, and that is why we over here are in favor of putting on the White amendment that would provide a commission. We think that we should move forward, not that this is the end-all of reforms for campaign finance, but it is the beginning. It is a major step.

Mr. Chairman, to camouflage it with this poison pill by providing nonseverability is an attempt to deny the public an opportunity for clear finance reform.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

Mr. WEYGAND. I yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, I think the gentleman from Rhode Island has very eloquently pointed out the difference between the perspectives here. Mr. Chairman, I would ask if the gentleman would agree that if we believe every point of this bill by itself is good, then severability makes sense. But if the Court struck out any two provisions, any three provisions, any one provision of the Shays-Meehan bill, what I believe I heard the gentleman say was it is still a great beginning and he supports it.

The CHAIRMAN. The time of the gentleman from Rhode Island (Mr. WEYGAND) has expired.

(By unanimous consent, Mr. WEYGAND was allowed to proceed for 2 additional minutes.)

Mr. WEYGAND. Mr. Chairman, the gentlewoman from Kentucky has struck a very poignant part of our argument. We believe that if one or two or three parts of this bill, or other parts of the underlying statute which we are amending, existing law, were found by the Court to be wrong, then they should be severed away from it and taken away from it. It does not mean that the rest of it should not stand.

Let me give an example which is totally different. The Tax Code. Tax law. We passed tax bills last year. Monumental tax revision. If any one piece of that tax bill fails, I am sure that the gentleman from Texas (Mr. ARCHER) and the Committee on Ways and Means and this Congress and this Senate would make provisions to try to correct the mistakes. But do we put a nonseverability clause on the tax bill?

Mrs. NORTHUP. Mr. Chairman, if the gentleman would again yield, if I can answer that because I think this is such an important clarification.

Mr. Chairman, we do not put nonseverability because those of us that voted for that tax cut believed each one of those cuts stood on their own merit, had a merit of their own.

For those of us that are asking for support for the nonseverability, we are saying that if Members believe that balance is important, and this is a balanced product and that if two or three points of it would be struck down by the courts and the rest of it would create an imbalance, severability would be important.

Mr. WEYGAND. Mr. Chairman, reclaiming my time, our sole intent here is to make sure that Shays-Meehan stands, in part or in total. This amendment that is being offered by the gentleman will, in fact, provide us with a total failure. It is a poison pill that will ruin Shays-Meehan, and it is intended to do so.

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

Mr. Chairman, I have been wanting to have some time for a while because I first want to speak on process, and I hope the gentleman from Connecticut (Mr. SHAYS) is listening, and I do not know if the gentleman from Texas (Mr. DELAY) is here or not. But I cannot let pass the nuance that the gentleman from Connecticut was in some way trying to interfere with the free flow of debate on this floor or was in any way disrespectful of his colleagues.

Mr. Chairman, it has been my experience in the 6 years that I have served in this House that there is not a Member of the House of Representatives who is more courteous, who is more respectful of his colleagues, who is more polite than the gentleman from Connecticut. He is a gentleman par excellence, and his motives in that regard should not be questioned.

Mr. Chairman, it was clear that his concern simply was that in the format where we each seek 5 minutes and an infinite number of yields might prevent others from having an opportunity to speak. And it was only, I know, because of his courteous respect for his colleagues that he made that point and I think that should be clarified.

On the merits of severability, the gentleman from California (Mr. THOMAS), neither he nor the proponents of his amendment have yet made the case that the elements of the Shays-Meehan bill, in fact, hinge upon and were dependent upon one another. The fact of the matter is that they are not.

The first provision, the most important provision is that this bill bans soft money. Americans by overwhelming majorities understand that when huge corporations or huge labor unions are able to contribute huge sums of money to the parties, that they buy undue influence that individual Americans could never ever achieve. And Americans think that is wrong because this is not government by the corporations, for the corporations, or by the labor unions, for the labor unions. It is government by and for and of "We the People."

Americans understand that people should contribute to candidates, not corporations, not to parties, nor should labor unions.

Now, Mr. Chairman, that is meritorious on its own regard. If the Supreme Court decided that codifying Beck with regard to paycheck protection or with regard to contributions by union members was unconstitutional, that in no way minimizes the value of banning soft money. No more than getting rid of sham issue ads, where they get around the rightful limitations on contributions of hard money and use other funds to go right after a specific candidate and malign him and attack him without ever owning up that the purpose of that ad was to go after a specific candidate. That stands on its own merit entirely.

Whether the limitation on what wealthy candidates contribute was to stand or fall in the courts has nothing to do with the merits of getting rid of these sham ads, any more than limiting the ability of incumbents to use the franking privileges all the way up to elections. If that stands or does not stand in the Supreme Court, it has nothing to do with whether foreign money and fund-raising on government property should stay in law.

So until the proponents of the Thomas amendment can show in any way how these components of the Shays-Meehan act rely on, depend on, cannot exist without the other, they have not made anything like a case.

□ 1930

The fact of the matter is that these provisions all stand on their own. All have merit, individually or collectively, and are not dependent upon one another in order to accomplish real campaign finance reform. I urge a "no" vote on the Thomas amendment.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, what I would say is that there are different ways for different people to influence elections. The fact is, soft money, I believe, is a very good form of support for our parties. If GE gives $100,000 to the Republican Party, whatever candidates they help have no idea who gave that

money, have no idea whom they might owe.

In fact, the only thing that they are thankful for is the fact that their party, whom they already agree with, their principles, supported them.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GREENWOOD) has expired.

(By unanimous consent, Mr. GREENWOOD was allowed to proceed for 1 additional minute.)

Mr. GREENWOOD. Mr. Chairman, in response to the gentlewoman's comments, it may be the candidates do not know where the money came from, but it is certainly the case that when the XYZ Corporation gives a huge sum of money to the Democratic or the Republican Party, Members of Congress in the House and the Senate were involved in raising that money.

When the vote comes before the House, they are not adverse to reminding Members, the XYZ corporation or the XYZ labor union just gave us a million dollars, and they will really appreciate the right vote here. Do you think that does not happen?

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

Mr. GREENWOOD. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, my colleague is 100 percent right. It is so cynical for anybody to suggest that the people who are in office, who helped raise the money in many cases, do not know the source of the funds. The gentleman from Pennsylvania (Mr. GREENWOOD) is so right.

The problem is, the public does not know. But the recipients, the parties, do know.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Pennsylvania (Mr. GREENWOOD) has again expired.

(On request of Mrs. NORTHUP, and by unanimous consent, Mr. GREENWOOD was allowed to proceed for 2 additional minutes.)

Mr. HEFNER. I object, Mr. Chairman.

The CHAIRMAN pro tempore. No timely objections were heard. The gentleman from Pennsylvania (Mr. GREENWOOD) is recognized for 2 additional minutes.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield?

Mr. GREENWOOD. Mr. Chairman, I yield to the gentlewoman from Kentucky to see what she says and to decide if I want to continue to yield.

Mrs. NORTHUP. Mr. Chairman, I will just point out that we all know who gives to the parties because it is reported. But if the XYZ Corporation thinks they want to influence an election, now they can give it to an independent organization, which is the part of the bill we think will become unconstitutional; and no one, no public has any ability to know they got $100,000 or whether they told the candidate that they gave $100,000. That is the sort of illegal action that has happened in States where they have previously passed this kind of legislation. I am sorry we cannot hear the rest of the story.

Mr. GREENWOOD. Reclaiming my time, Mr. Chairman, the fact of the matter is, we can be for soft money, as the gentlewoman is, and be against it, as I am; and that is a legitimate and reasonable debate.

The issue in this amendment is whether the ban on soft money is or is not a good idea, depending upon whether the courts decide that the ban on raising money in public offices stands or it does not.

These provisions have merit on their own. They do not hinge one upon the other. They are not dependent upon one another for their effect. They should not be subject to this sham amendment which I think, although I have nothing but respect for the gentleman from California, is really intended to undo the provisions.

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

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

Mr. DOOLITTLE. Mr. Chairman, is the gentleman saying there may be provisions in this bill that could be deemed unconstitutional?

Mr. GREENWOOD. Mr. Chairman, reclaiming my time, what I am saying is that the proponents of this amendment have yet to make a coherent argument that, in fact, one provision of this bill relies upon the other. The burden of proof on an offer of an amendment is to prove that their argument has validity, and you have not done that.

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

Mr. Chairman, let me begin with the assertion from the gentlewoman from Kentucky that when an individual gives $100,000, or a corporation, to a political party, the candidates do not know who gave that. I would nominate that for the single most astounding thing said on the floor of the House since the gentleman from California (Mr. Dornan) left our premises. No one I know of thinks that that comports with the facts. Of course the candidates are made aware of who gave the soft money.

Next, I want to talk about the rule. I do not know if the gentleman from Colorado is still here. He was waxing indignant because people criticized the rule. He said, you know, you come to us, and you ask for amendments, and you ask for amendments, and you ask for amendments; and we say, no, you cannot have this, and, no, you cannot have that, and, no, you cannot have this; and then we make 417 nongermane amendments in order to this bill, and you are ungrateful.

As a matter of fact, that is precisely our point. The majority has made it clear, when they want a bill to pass, they restrict amendments unduly. The chairman of the Committee on Rules boasted on this floor that he would not allow any amendment to the defense bill, including one cosponsored by myself and the gentleman from Connecticut that would have allowed a cut in the defense bill.

He would not allow one to have us remove our troops in Bosnia, cosponsored by three Democrats and three Republicans. Amendments were kept off the bankruptcy bill. Amendments have been kept off bills.

So my colleagues are right, we do point to the glaring difference between a refusal to allow basic important amendments to bills and then loading this down with nongermane amendments. That is clearly a sign of people who do not want to have this bill.

Do my colleagues want to know what this rule is and this procedure is? This is filibuster envy. We have people here who may not make it to the Senate on their own, so they will try and change the rules so we can filibuster.

I sympathize with my friends who try to get before them. I do not agree with them. But it is a sign of how overwhelmingly opposed the Republican leadership is to letting this bill get decided, that my good friends, men of integrity and women of integrity who worked hard, have to claim as a victory that they are going to let us vote on it in August. That is, I think, a sign of how much they are not for this bill.

Mr. Chairman, I want to get to severability, but first I will yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, will the gentleman yield for a question?

Mr. FRANK of Massachusetts. Mr. Chairman, I just said I would yield to the gentlewoman from Kentucky.

What was her question?

Mrs. NORTHUP. Mr. Chairman, I was just wondering if the gentleman can name, for example, five contributors that have given $100,000 to his party. I could not name that.

Mr. FRANK of Massachusetts. Mr. Chairman, right now Bernard Schwartz comes to mind. He is the man from Loral. Then the National Education Association, the United Auto Workers. Oh, the Teamsters.

Mrs. NORTHUP. Mr. Chairman, let me ask the gentleman another question.

Mr. FRANK of Massachusetts. I am sorry, the gentlewoman asked one question, teacher. Excuse me, but I answered one question, and then I will talk some more, and she can ask another.

Mrs. NORTHUP. All right.

Mr. FRANK of Massachusetts. Because I do want to get to severability.

This notion that you cannot have severability, there is a constitutional doubt, I am struck by the number of conversions I am seeing today, first because we have the majority whip who is a born-again constitutionalist.

In the 14 years I have known him, he has voted for a number of bills that were found unconstitutional without any hesitation. He has never, in my hearing, defended free speech, but all of a sudden he is a great defender of the constitutionality of free speech and of nonseverability.

Let me talk about the telecommunications bill. It was voted out of this Congress in early 1996 with a blatantly unconstitutional provision called the Communications Decency Act, which purported to restrict what adults can say to each other on the Internet even when it wasn't obscene. Over and above obscenity, it said, we may not be indecent to each other. That passed.

The Supreme Court struck it down 9–0. Every member of the Supreme Court said, Clarence Thomas, Justice Scalia, this is blatantly unconstitutional. We cannot do it. I guess I must have been absent the day the majority whip, the arbiter of free speech, objected to that.

But do you know what, the bill had a severability clause, because if we had done it the way Members here are now advocating, that whole telecommunications bill would have been thrown out, because the telecommunications bill contained a blatantly unconstitutional provision.

As you might have inferred from the fact that I am drawing on it at length, I voted against the bill because I knew that it was unconstitutional. However, all the rest voted for it, over 400. I did not do that well in that vote.

People who voted for that blatantly unconstitutional provision and then saw it survive because of a severability clause, if they come to us now and say, we are just unable to vote for anything about which there is constitutional doubt, and we must have a nonseverability clause, do not impress me that that is, in fact, what motivates them on this particular bill.

We have another problem with this rule, and let me use a technical term to describe this rule, "cockamamy." With this cockamamy rule, my colleagues have more loops and whirls.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. Mr. Chairman, what we have here is a procedure whereby the Committee on Rules, which would not allow the amendment of the gentleman from California (Mr. CONDIT) to the budget, would not allow on the other bill, he would not allow the Senate budget as a budget amendment here, would not allow an amendment on Bosnia, the defense bill, it has allowed nongermane amendments and other amendments.

Given the strategy that is being followed of people who want to beat this bill, but do not think they can do it head on, here is what I think we are likely to see: A nonseverability clause, if adopted, will then become the invitation for an unconstitutional amendment. What will happen will be this; here is the scenario:

They get a nonseverability clause adopted. Then they come up with an unconstitutional amendment, but one Members are afraid to vote for. If you doubt that, let me remind you that we voted for a Communications Decency Act by over 400 votes that the Supreme Court threw out 9–0.

So here is how they help to defeat Shays-Meehan. They adopt, rarely, for only like the fifth time this year it is even considered, a nonseverability clause. Then they use this rule to come up with an overwhelmingly appealing, but dubiously constitutional amendment. They get it put in, and they bring down the whole bill.

If we were talking only about Shays-Meehan and there was no chance of an amendment, then I would be less concerned about nonseverability. But you are asking for the right to put in a nonseverability clause and then come up with transparently political amendments which have overwhelming appeal, which Members this close to an election might not want to vote against, and then you would bring down the whole bill.

I think nothing could be clearer from the jumping and whooping and leaping that is going on here that people want to do anything but debate Shays-Meehan.

It is possible, by the way, that we will at some point adopt something that is in the gray area in the Constitution. That is an appropriate thing to do. That is the way we give the court a chance to test itself. But to tell us with this rule, this travesty of a rule aimed at trying to kill the bill, that we should adopt a nonseverability clause so Members can put an unconstitutional amendment in is asking the bill to commit suicide.

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

Mr. Chairman, I want to get back to the subject of amendment 132, proposed by the gentleman from California (Mr. THOMAS) and deal with that, and then come to some of the allegations that have floated through this Chamber again about how we are impinging on free speech.

The chairman was right when he referred back to Buckley v. Valeo and how it was handled by the United States Supreme Court. Because in Buckley v. Valeo, the court made a distinction between contributions and expenditures, and we wound up with half of what the Congress had passed.

So there is always a risk when an amendment is brought before this body when we seek to pass legislation, there is always a risk that a portion of that legislation may be held unconstitutional. But in trying to avoid the problem created by Buckley v. Valeo, we are really undermining our chances of campaign finance reform.

What we are trying to do here is to pass a soft money ban. I disagree with the gentlewoman from Kentucky (Mrs. NORTHUP). We can read all the reports we want. We know who gives money to the national parties. If we can just look at the reports of the Republican Party, we will see $6 million or $7 million in money from the tobacco companies coming to the Republican Party, and that is soft money because it comes from corporations.

Corporations have not been able to give to Federal candidates for decades, and yet, they can give money to the national parties, and that money can be used for issue ads that will go out and will affect Federal elections. That is wrong. That is why we need to ban soft money.

Both the freshman bill and the Shays-Meehan bill do that. They have effective soft money bans. It is disingenuous for people to stand up and say they believe in a balanced bill. They believe it is constitutional. Therefore, we should simply go ahead and adopt a nonseverability clause.

Nonseverability clauses are the exception rather than the rule. What is going on here? There have been innumerable efforts to kill campaign finance reform, real reform in this hall, in this session. What is going on now is an attempt to adopt an amendment that would have a chance of killing in the courts any campaign reform, either Shays-Meehan or Hutchinson-Allen, that passes this particular body. We do not want that to happen.

Amendment 132 should be voted down. We do not want a nonseverability clause. If you simply look at the people who are advocating for this particular reform on the Republican side, they are not sponsors of Shays-Meehan; they are not sponsors of Hutchinson-Allen.

□ 1945

Now, let me go back for a moment to the claims that are made periodically here that we are infringing on free speech. Let us go back to Buckley v. Valeo. That court held clearly that in order to prevent corruption, or the appearance of corruption, the Congress could act to impose restrictions on campaign contributions. It is absolutely clear from that decision and from other decisions that it is constitutional to ban soft money.

In a recent case, the court said if it appears that soft money is being used as a way to avoid hard money limits, then the Congress could reconsider what it has done so far on soft money.

Let us talk about what that means in the real world. In the real world, an individual can only give $1,000 to a candidate, but they can give $100,000 or $500,000 to a political party, and that money can be used for issue ads to affect a Federal election.

That is wrong. It needs to be stopped. We have got to contain the influence of big money in politics, and we cannot be diverted by arguments that we are jeopardizing free speech.

I believe Shays-Meehan is constitutional. I believe the freshman bill is constitutional. But in any bill that we pass, there is always some risk. There is always some risk. And so what we ought to do is stop all the posturing and simply say what we want is a bill to come out of this Congress that will not only pass the House and pass the Senate and be signed by the President, but will withstand constitutional scrutiny, and when it is done, will not be ruled in its entirety unconstitutional because of some minor provision.

Mr. SOLOMON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETERSON of Pennsylvania) having assumed the chair, Mr. DICKEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–585) on the resolution (H. Res. 477) providing for consideration of the bill (H.R. 4059), making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4060, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–586) on the resolution (H. Res. 478), providing for consideration of the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, JUNE 19, 1998, TO FILE PRIVILEGED REPORT ON DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mrs. NORTHUP. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight Friday, June 19, 1998, to file a privileged report on a bill making appropriations for the Department of Agriculture, Rural Development, Food and Drug Administration and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kentucky?

Mr. FRANK of Massachusetts. Reserving the right to object, Mr. Speaker, just to ask how many nongermane amendments were made in order by the rules that we just filed?

Mrs. NORTHUP. It is an open rule, sir.

Mr. FRANK of Massachusetts. No nongermane amendments, though?

Mrs. NORTHUP. But I was happy to yield to the gentleman's question.

Mr. FRANK of Massachusetts. The gentlewoman did not yield, I reserved the right to object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kentucky?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XXI, all points of order are reserved.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 442 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. 2183.

□ 1950

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. DICKEY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, pending was the amendment by the gentleman from California (Mr. THOMAS) to the amendment No. 13 by the gentleman from Connecticut (Mr. SHAYS).

Is there further debate on the amendment?

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

Mr. Chairman, I yield to the gentlewoman from Kentucky (Mrs. NORTHUP).

Mrs. NORTHUP. Mr. Chairman, I appreciate the gentleman yielding to me and giving me an opportunity to answer some of the previous statements.

First of all, I was surprised at how many speakers have talked as though the whole system is corrupted. Maybe I am naive, but I believe that this is a mostly honest system. I believe that there are those people that cannot resist money in return for influence, but I have not seen many colleagues on this floor that are in that position, and I believe most of our Members work throughout the system in an honest way.

And so I think it is important to tell the people, the American people around this country, that while, yes, individuals, corporations and labor unions contribute money because they care about elections, that most Members on this floor can cite many instances when they have turned to those people that are contributors and said, in this case, I cannot support you, I do not agree, even though they contributed, because they believed in most instances they shared a common perspective of public policy.

Most all of us have, on plenty of occasions, looked almost every one of our contributors in the eye and said, not on this occasion, I cannot agree with you.

I was asked why I believe nonseverability is so important, and this is why. I believe almost without a doubt that the courts are going to strike down the provisions related to independent expenditures. So, yes, we can make soft money illegal, and soft money, in my opinion, is the type of money that is used for party building, for general themes. I am not aware that any soft money has ever come into my campaign. It may have, but I am not aware that it ever has.

But people that wish to influence campaigns, and we know they are there, if they wish to influence campaigns, they can begin giving their money to independent organizations, where most of us believe the constitutional problems with this system exists. And in that case the money is not traceable, it is not reportable, and the fact is that those independent organizations can then collaborate or whisper in the ear of anybody they want.

I know that I am going to abide by every law in campaign finance. I know I believe in the system and that I believe in the voters, but I do not want to create a system where money goes so that it can then be sent to candidates,

so that the candidate that is willing to break the law the most, who collaborates with an independent organization, who will be so desperate that they ask an independent organization to, in a sense, money launder, which is what would happen, that the person that is willing to break the law the most is the person that has the best advantage.

Some people say that will never happen, but let me assure my friends that in Kentucky we passed campaign finance reform for our governor's races. And what happened? It did not take one session before we began to have parallel campaigns. For example, somebody left from one of the candidate's staffs, went to an organization, worked to raise money, worked to spend money, and none of it reportable, none of it available for the public to see. And what we had was parallel campaigns going on out of sight of the voters.

That is the sort of thing that will begin to change the system for those of us who report every expenditure and who are happy to live within the system. It will put us at the most disadvantage, and the person that is willing to collaborate illegally will be at the greatest advantage.

I am sorry that it is given to those of us that oppose this such evil intentions, because the truth is there are not many people in this House that set a better example than if we just have hard money. No independent money, no soft money. I have raised in my district from individuals, from the $5 contributors, the $10 contributors that give every month, and the large contributors, a whole group of people who have supported me, and I do not need the soft money or the independent expenditures. But there are people in districts who have not had that opportunity and they have been able to get their voice out, they have been able to have the support of the overall party building money that can turn out voters, that can say this is what the Democratic party stands for, that cannot be candidate specific, but they will be the people who suffer.

The CHAIRMAN. The time of the gentleman from California (Mr. POMBO) has expired.

Mr. POMBO. Mr. Chairman, I ask unanimous consent for an additional 2 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. FARR of California. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard from the gentleman from California.

Mr. POMBO. Am I to understand the gentleman from California has objected to my asking for an additional 2 minutes?

Mr. FARR of California. The gentleman had 5 minutes and he yielded it all.

The CHAIRMAN pro tempore. Objection has been heard.

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

Mr. Chairman, I am one of the authors of one of the bills that are going to be considered, and I find this process incredibly demeaning, although we get up here and talk about how open it is because we have 258 amendments on the floor. But, frankly, the bottom line of all this is that we have to vote on a bill, and the judgment will be whether we put a bill out and put out a good bill.

Congress is able to do that, because we did it in the 101st session of Congress, the 102nd session of Congress and the 103rd session. And, in fact, the bill we put out is more comprehensive than any of the bills we are debating here tonight. So this body is capable. We never brought up 258 amendments to try to make those things. We did not talk about severability in those issues. So I think my colleagues see what is going on here. There is an effort here to try to really defeat the issue.

I find it very ironic that we are debating right now on a nonseverability amendment to a nongermane amendment, because I think some of the people who sponsor these amendments really do not want campaign reform. They want nonreform.

This debate sometimes becomes almost silly, because the public may not understand the legal implications of severability, but they do understand fair play. And what campaign reform is about in America in 1998 is fair play. How do we take so much money out of the system? We have to pass a law to do that, and that law has to do a lot of things. But they are not all connected.

Most people believe in fair play and they also understand that in fair play people can make mistakes. And this nonseverability debate is about we can never make a mistake. Congress cannot make one word of a mistake, because if the court throws it out, we have to throw out the whole thing. If we lived by that in our lives, then one poor grade would throw our child out of school; one overdrawn check would cancel our checking account. In fact, if one Member might get in legal trouble, we should throw out all Members because they all got elected at the same time.

So let us get down to what it is all about. This is about a bill that is a bipartisan bill. We rarely see these on the floor. A lot of effort went in to try to bring a consensus about so that we could get enough votes to pass a bill out of this House in this session.

This bill has a lot of parts to it, and for those who say that we cannot have severability, they have not read the bill. There is all kinds of little things in here, like automatic penalties for late filing. What if the court threw that out? Do my colleagues think that has something to do with soft money? Absolutely not.

□ 2000

Should that kill the reforms on issue advocacy? Absolutely not. There are all kinds of parts in here that a court could say, for example, that we have not contributed enough money to enforce the law, some of the things that we have in here.

We allow the FEC to refer suspected violations to the Attorney General at any time. Read the bill. If we read the bill we will say, well, if that one sentence were found unconstitutional, should all of this other substantive stuff be thrown out? Absolutely not.

That is why people oppose this amendment, because they see this amendment as a way of destroying the whole effort here of trying to get a well-thought-out bill, a bill that has been compromised by the fact that it has gotten this far in this very controversial session of our Congress.

We need to make sure that we pass a bill that is comprehensive. And frankly, I think my bill, and both the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) and I have been working side by side, I think my bill at this point is much more comprehensive than theirs. But I am up here advocating the support of their bill because I think it is what we can politically do.

Let us not try to destroy this with 258 nongermane amendments. That is silly.

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

Mr. FARR of California. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, the point I also was going to make on severability is, if this amendment were to pass, with all the amendments that can be offered, how easy it would be for the other side to simply offer and pass a clearly patently unconstitutional amendment and the whole bill is dead.

So it could not be clearer, could not be clearer, that this amendment is a poison pill to kill this bill. Because even if everything in the bill is totally 100 percent constitutional, unlike the telecommunications bill, unlike the Brady bill, and unlike a lot of bills we pass, all they would have to do is come in with a nongermane amendment that sounds good but that they know is unconstitutional and it is over.

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

Mr. Chairman, one of the previous speakers, and there has been a lot of discussion actually this evening about tobacco and what happened over in the Senate, and the gentleman from Maine (Mr. ALLEN) I believe talked about how I have received a lot of tobacco money. And I wanted to confess tonight that I

do represent 31,000 tobacco farmers and tobacco companies through their political action committee using hard money, which is legal, which Shays/Meehan does not try to address at all. So they are not talking about hard money, that I have received hard money from tobacco companies; and I do not apologize for that.

But I would also like to point out that there is a gentleman named Ted Sioeng, who is from Indonesia, and he is the largest cigarette manufacturer in Red China today. I have a picture here of Mr. Sioeng and our President Bill Clinton. Mr. Sioeng gave Mr. Clinton and gave the DNC $400,000. And by the way, it was not hard money, it was soft money.

Now, I do not object to soft money, except in this instance there is a Federal Election Commission rule 441(e) that says it is illegal for foreign nationals to contribute money to campaigns in the United States.

And so, I would just remind the gentleman that his President, I guess he is all of our President, some of us like him more than others, but he accepted $400,000 from this gentleman.

And do my colleagues know something else? They have been trying to investigate these illegal contributions, which led to a lot of this debate about campaign finance reform, and we cannot find Mr. Sioeng. They have been looking for him everywhere. We cannot find him or any of his family.

But I just want to remind the gentleman that the contributions to me were legal hard money through the political action committee of which employees of those companies voluntarily gave the money and PACs came about as a reform measure themselves to encourage people to participate in the political system.

Now people are saying that the only reason we are offering these amendments is that we want to kill this bill, and I would suggest to them that there are some sincere beliefs that this bill goes too far. I think that we should support nonseverability for the simple reason that I think this is a vitally important issue.

I would like to read a quote from Buckley v. Valeo.

> Discussion of public issues and debate on the qualifications of candidates are vital to the operation of the system of government established by our Constitution.

This is one of the most fundamental First Amendment activities. Now we seem to be summarily dismissing this First Amendment and the fact that Buckley v. Valeo has not been overturned and court after court after court after court continue to affirm it. And I think that the real reason that our opponents are opposed to this nonseverability amendment is that they know, without any question, that there are all sorts of provisions in this bill that are unconstitutional.

Now, our friend from Pennsylvania a while ago said, no one has talked to me about how these are interconnected, the provisions of this bill. And I tell him what, when we start broadening the definition of "express advocacy" that has a dramatic impact on issue advocacy and independent expenditures and what can and cannot be done. Those three are definitely related.

I want to read an article here from the American Civil Liberties Union. I have never really been a fan of the American Civil Liberties Union, but I am sure that people who follow them know that their main purpose in existing is to be sure that the Constitution is upheld. And they are bringing all sorts of lawsuits around the country on many issues that people do not like because they feel it is so important to protect constitutional rights.

I just want to read to my colleagues.

> What is wrong with the Shays/Meehan bill? Number one. Shays/Meehan is patently unconstitutional. The American Civil Liberties Union believes that key elements of Shays-Meehan violate the First Amendment right to free speech because the legislation contains provisions that would one, restrict the right of the people to express their opinions about elected officials and issues through unprecedented limitations on text, accompanying issue group voting records, and restraints on citizen commentary prior to election, restrict contributions. Two, and uses of soft money.

And remember, soft money is everything the other groups spend that are not candidates.

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

Mr. Chairman, I was unable to be in the House and on the floor for the general debate on the rule, and I believe the issue of severability has been well debated here. I rise now in support of the Shays/Meehan bill.

Mr. Chairman, my colleagues, there is only one glue that holds this precious democracy together, trust, trust between the representatives and the represented.

I speak to lots of young college students throughout the State of Illinois. They often rise and look me in the eye and say to me, "Congressman, we do not trust any of you anymore. You are all in it for yourself. You are all in it for the special interests. No one is in it for us anymore."

And when I inquire of them as to what it is that has brought them to the point of feeling so distrustful about their government, feeling that their government just does not care about them, they always look me in the eye and they follow up with this statement. "Congressman, just follow the money. Just follow the money. You will know why we do not trust government anymore."

Well, I have followed it. And so have my colleagues. We know that huge amounts of money is buying access to our government. And access leads to influence, and influence leads to policies that are not always in the best interest of our people.

If democracy means anything, it must mean that all of our people, all of our people, irrespective of their economic station in life, all of them, must have equal access to their representative. We must do nothing to disturb the trust between the representative and the represented.

Mr. Lincoln said it 130 years ago in front of a divided nation. He said, here is the bottom line. There is no other. This is the bottom line. Right makes might. Right makes might. Not money. Not power. Not position. Not even the Congress. Right makes might.

Shays/Meehan is not perfect but it seeks to reestablish some measure of balance, some measure of equality between the competing voices that seek to be heard in this democracy.

The constitutional question in that little room in Philadelphia, Pennsylvania, 225 years ago was whether the common man, the common man, would have a voice alongside the monied aristocracy.

Thomas Payne put it in these words. He said, "Gentlemen, we have the opportunity to make the world over again, to give common people an equal voice in their government, something unheard of in the whole history of the world."

There are times when we in this body are charged with making America over again, when equality of voice is denied in our system. Do not do further injury to this glue, to this trust, which holds us together. Pass this bill and reject any amendments which seek to weaken it. It is the right thing for all of our people.

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

Mr. Chairman, I rise today to support the Thomas amendment of the nonseverability clause. Because we need to do it right. We need to pass legislation that is constitutional. We should not do anything else. We know, with pretty clear record, that many provisions have already from previous legislation been termed unconstitutional. So why should we do it again?

It was interesting a little bit ago, just a few moments ago, that we were told by a gentleman that this bill was not quite perfect but it is almost and we should have no amendments because it is what the Senate would accept. I hope some day I hear a senator saying, let us keep this bill as it is because it is what the House will accept. I know that is not going to happen.

I served in state in both the Senate and the House and I know that is not going to happen in the Senate, whether it is in state or in Washington. Though I respect that gentleman very much, we should not be crafting a bill for the Senate.

I think the vast majority here tonight know that that bill will have provisions struck down by the courts. And we do not need the poison pill that the gentleman spoke of a few moments ago. Because this bill, by most people's opinion, has unconstitutional provisions.

The current law has been in place about a quarter of a century. Large sections were struck down in 1976 and left us a patchwork plan of campaign finance, a patchwork.

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It has a lot of problems. But let us not build another system where the courts can give us another patchwork quilt that will not work. It will happen again.

Now, think about this a moment. If the court strikes down money to the parties as being illegal but allows the private groups to be legal, and that part remains, we have taken the power away from the parties and we have given it to interest groups that we are talking so much about. That could happen.

Is Shays-Meehan perfect? No, it is not. I think it misses the mark. Because I think we have the soft money problem because we have taken the power away from the people. In most State governments, individual contributions are not limited at all, and soft money does not play the role there that it does in Washington. That may not be true in every State, but it is true in many. The people are stuck with the same contribution limit that was here in 1974. If that were inflation fixed, it would be probably 3 or $4,000. Now, if $1,000 was right then, it is certainly not fair today. Why not empower the individual?

We limit an individual to $25,000 in a whole congressional race. Let me tell Members why I think that is inappropriate. The Shays-Meehan approach will limit free speech. It will particularly limit free speech to those who want to protect the sanctity of life. I do not know a more noble issue than protecting life itself. It will also prohibit those who want to protect the right to bear arms, and I come from rural America and that is a pretty important issue out there, the right to bear arms, the right to defend yourself. I also come from an area where private property rights are pretty important, and those groups will be limited.

Mr. Chairman, I am going to come back to the point of $25,000 for an individual. Why should an individual who happens to believe strongly about life not be able to support every congressional candidate with $1,000 that he wants to? Under the current law, he would not be allowed to do that, and none of that is changed under Shays-Meehan. Why should he not be able to support any candidate that is pro-life? Why should he or she not be able to support anybody who defends the right to bear arms? That is very important to some people, very important to the future of this country. Or private property rights. Why should a person not be allowed individually to give to any person who believes private property rights is vital to the future? Because Congresses have historically walked all over people's private rights. The previous Congresses in my view have infringed on personal rights in many ways. So why should we not? We need to have a bill that makes sense, one that will not be partially struck down by the courts, and we need a severability clause, because if we do not do it right, we need to come back and do it again.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Pennsylvania (Mr. PETERSON) has expired.

(On request of Mr. WHITFIELD, and by unanimous consent, Mr. PETERSON of Pennsylvania was allowed to proceed for 1 additional minute.)

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield to the gentleman from Kentucky.

Mr. WHITFIELD. The question I had, the gentleman had referred to that individuals can give up to $25,000. I just want to make sure that everyone understands on this issue that the most that an individual can give to a candidate is $1,000 in the primary, and so he cannot give them $25,000.

Mr. PETERSON of Minnesota. That is correct. The point I was making is any individual can only give under current law, and Shays-Meehan does not touch that. And we also have a limit that any individual can only give $25,000 to 435 people. He can only give to $25,000, if he gives them the limit.

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

Mr. Chairman, it is very clear that some figures my staff worked up today are accurate. In fact, it might be worse than what they worked up. With the rule that we passed today, 258 nongermane amendments to stop any real sense of taking campaign finance reform forward and actually passing it, with this rule brought to the floor by the opponents of campaign finance reform we can keep talking for 24 hours a day, 7 days a week for more than 385 days, and we will not be voting still on campaign finance reform. That is what we allowed today. That means in mid-July 1999, we could be voting on campaign finance reform.

Tonight proves, if we keep this up, this is exactly what is going to happen. We are going to kill this thing with all of these amendments. We can talk day in and day out about nonseverability. We can pull it apart, we can look at it under the microscope. What it is all about is stalling real campaign finance reform votes.

The real vote is for the Shays-Meehan bill. If you care about your constituents, you will get to it and vote on it, and then we can get on with the rest of the needs that we have for our government.

How did I get to this place? It was really kind of an awakening. A couple of years ago, I had a meeting in my offices in the district I represent, the two counties north of San Francisco across the Golden Gate Bridge. The League of Women Voters came to my office along with some Common Cause folks and members of the Democratic Central Committee to talk to me about campaign finance reform.

I was not where they were. I was more like where you are over there, I was whining and whimpering and arguing that, "Well, if we can't have caps on what an individual can spend of their own money, people like me will never get reelected, or elected in the first place, because I don't have any money of my own."

The people that came, they are wonderful people, they always support me, but they argued with me. They argued about the need to have regular, everyday people feel like they were part of the election campaign system, like they belonged to the political process. They argued with me about soft money, which of course I agreed with. The thing I did not agree was that what are we going to do if millionaires like Huffington, multi-multimillionaires, can spend their own money?

They laughed and they said, "Woolsey, you know, we agree with you on everything, so we're going to forgive you this," and they left, and I won my election well in 1996. But as they left and as I started remembering the things they said, I realized that we do not have to do this perfect. We do not have to have all of it. We have to start. And we have to prove to people that we care that they are part of the process, that it is just not big money, that we are not paying soft money so that the money is not accountable, and that we ban soft money. Shays-Meehan does that.

Also, and they pounded this home, and they were so right, that we have to stop having advertisements and mailers without accountability, third parties sending out information without anybody knowing who it is that is sending that information.

So because of these wonderful people that came to my office several years ago, and because they liked me enough that they thought they could give me a good kick in the fanny, I came from the slow class to the fast class. I am here now. I get it. We need to take a step forward. Shays-Meehan does that for us.

Yes, we want to have a commission. We should add that amendment to the Shays-Meehan bill so that we can have the commission watching and going

forward and making it even better. But we have to stop disenfranchising the people in our districts that we work for.

I do not understand who these people that are opposed to campaign finance reform work for, the people that are your constituents, the people that elect you, the people that are your employers, do they listen to you when you say you want more money in campaigning instead of less?

Mr. Chairman, if we respect the people in our districts and the people we work for, we will get on with passing campaign finance reform.

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

Mr. Chairman, let me just respond to the gentlewoman from California who complained that we have now passed a rule that is going to take a lot of time here.

First of all, the leadership has given its commitment that we will vote on this issue in August, and I believe they will honor that commitment.

Now, beyond that, when a proposal such as this, which I believe fervently strikes at the heart of free expression and the first amendment, comes forward, then I do not apologize for wanting to take the time to fully explore all the issues and to explore the ramifications and to look at alternatives. I do not apologize for that. I think it is going to take some time, but it is worth it if we can get the point across to the American people that this is going to the heart of freedom of speech.

Ms. WOOLSEY. Mr. Chairman, will the gentleman yield?

Mr. WICKER. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Chairman, I would like to remind the gentleman that the Speaker is the same Speaker that shook hands with the President of the United States 3 years ago, and we still do not have campaign finance reform.

Mr. WICKER. The handshake was about the type of proposal that we voted on yesterday, the commission, which the majority of folks on the other side of the aisle somehow lost interest in when it was finally presented to the floor.

But if I could reclaim my time now, I just would simply say, I do not apologize for taking this issue to the American people and pointing out that this goes to the heart of the first amendment. If Members are for Shays-Meehan, and they think every bit of it is constitutional, then they have nothing to fear voting for this nonseverability amendment. If, however, as I do, if they believe that there are unconstitutional provisions to this amendment, then they also ought to vote for the nonseverability, so everybody, regardless of what side of the issue they are on, ought to vote for the nonseverability.

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

Mr. WICKER. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. What do we do about the fact that somebody could offer an amendment that is clearly unconstitutional? If we were to pass this amendment and somebody down the road offers an amendment that is clearly unconstitutional, our bill is dead then.

Mr. WICKER. Reclaiming my time, I am glad the gentleman brought that up because he made that point earlier. Amendments are not that easy to pass. Amendments do not just get slipped in. We vote on them. We have 17-minute votes. I do not think amendments are going to be quite that easy. But if an amendment passes, it will be passed by a majority of the elected representatives of the people of the United States. I do not see his concern as being valid, that somehow late at night an unconstitutional amendment to this already unconstitutional proposal is going to slip in.

Mr. MEEHAN. If the gentleman will yield further, there have been a number of amendments that have passed in the telecommunications bill, the Brady bill, bills that we have passed that the court has said are unconstitutional, and they have stricken that part of the bill. But what the gentleman is asking us to do is pass an amendment where if a comma is unconstitutional, a word, a phrase, the whole bill is gone. It is a poison pill to campaign finance reform.

Mr. WICKER. Mr. Chairman, reclaiming my time, it will only be a poison pill if somehow the gentleman from Massachusetts or the gentleman from Connecticut go to sleep and allow that poison pill to go through.

In the brief time that I have remaining, let me tell Members why I think this proposal is unconstitutional. First of all, because the minority leader of the United States House of Representatives really admits that it is unconstitutional.

Let me show my colleagues this poster which the Members have seen several times before, but this is the gentleman from Missouri (Mr. GEPHARDT), House Democratic Leader, February 3, 1997, Time magazine:

> What we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. You can't have both;

an admission by the minority leader that what he wants to do and what his political allies want to do is unconstitutional. You have got to amend the Constitution in order to accomplish their goals. That is one reason that I think this Shays-Meehan proposal is unconstitutional.

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

Mr. WICKER. I decline to yield further.

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Mr. Chairman, further I think this proposal is unconstitutional because of the unprecedented limitations that it places on political advertising and political issue expression, and let me explain.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi (Mr. WICKER) has expired.

Mr. WICKER. Mr. Chairman, I ask unanimous consent to proceed for an additional 3 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. FRANK of Massachusetts. Reserving the right to object, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Massachusetts is recognized under his reservation of objection.

Mr. FRANK of Massachusetts. Being recognized on my reservation of objection, Mr. Chairman, does the gentleman plan to yield during that additional 3 minutes?

Mr. WICKER. Really, Mr. Chairman, I do not think I have time to yield.

Mr. FRANK of Massachusetts. Then I would be constrained to object.

I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

The Chair recognizes the gentleman from California (Mr. DOOLITTLE).

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

Mr. DELAY. Mr. Chairman, will the gentleman yield to me first?

Mr. DOOLITTLE. I yield to the gentleman from Texas.

Mr. DELAY. This is just incredible, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair would like to clarify that the gentleman from California (Mr. DOOLITTLE) is recognized for 5 minutes and yields to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Now we have not only does the other side, Mr. Chairman, not allow us to extend time——

Ms. RIVERS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. Does the gentleman from California yield for parliamentary inquiry?

Mr. DOOLITTLE. No, I do not yield.

Ms. RIVERS. I have to be recognized for a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from California does not yield for a parliamentary inquiry.

Mr. DELAY. I appreciate it. Then they come, and this is amazing, Mr. Chairman: If we are going to have an open and honest debate, we need to extend time particularly when the gentleman just yielded time to the gentleman from Massachusetts to get into the debate, and then the other gentleman from Massachusetts walks on

the floor and objects to an extension of time after the gentleman has been very courteous to yield time back and forth.

This is really strange. It is such a lack of courtesy. And then for the gentlewoman from Michigan (Ms. RIVERS) to stand up and demand time, it is just they have got to be kidding.

I think it is really strange, Mr. Chairman, that now after the gentleman from Massachusetts has objected to the gentleman from Mississippi getting extra time, now he wants us to yield to him. This is unbelievable, and I hope the American people are seeing what is happening on this floor. They want to cut down debate; we want to open debate, and we want an honest debate in exchange.

Mr. Chairman, I will be glad to exchange with the other side of this issue, and with that I will yield back to the gentleman from California so the gentleman from Mississippi can finish his thought.

Mr. DOOLITTLE. Mr. Chairman, I yield to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Chairman, let me talk about the unprecedented limitations on freedom of expression in this proposal before us tonight.

It costs $62,000 a page in the New York Times to buy a full-page ad, $62,000. I want to show my colleagues today $82,000. What I want to show them today is $164,000 worth of expression, the editorial page of the New York Times. The New York Times Corporation can purchase, can put out this much expression every single day of the year.

It costs $75,000 a page to buy an advertisement in USA Today. What I have here before us today is 2 pages, USA Today. The Gannett Corporation puts out $150,000 worth of expression each day, and there is no government agency coming in with a microscope saying what kind of speech is this? Is this issue advocacy? Is this express advocacy? If they print a voting record, the FEC does not come in and say, "Well, now did they write the right kind of comments down at the bottom of that voting record?" And that is as it should be. I applaud that. That is freedom of speech, that is freedom of expression, and that is America.

But under the proposals that we are going to be debating tonight and the rest of this process X Y Z Corporation wants to take out an $82,000 ad in the New York Times or a $75,000, or Right to Life wants to spend $75,000 of its contribution money to take out an ad in the Gannett newspaper. Then the strong arm of the Federal Government comes along with a magnifying glass and says, "Did you say it right? Is it during the right period of time? Is it during the 60 day period right before the election?" And there is a huge government agency coming in with even more bureaucracy then we have now.

This is an unconstitutional invasion of the right of individuals, of corporations, of public interest groups to purchase time, to purchase space in a newspaper and freely advocate as American citizens. It is unconstitutional. I think that is the very reason we need the nonseverability clause.

Mr. Chairman, I urge the adoption of the amendment and the defeat of the Shays-Meehan substitute.

Mr. DOOLITTLE. Mr. Chairman, I urge the defeat of the Shays-Meehan substitute and support the Thomas amendment.

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

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Ms. RIVERS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. For the edification of the majority whip:

The reason the gentlewoman from Michigan got up before was she and we were under the assumption that the normal procedure would be followed of alternating between the parties. I think a good-faith error was made, but the gentlewoman was not trying to usurp anything. The normal procedure is to alternate between the parties. Through a slip-up that had not happened. The gentlewoman had the reasonable expectation that a Republican, having completed, it would next have gone to her. That is why the gentlewoman did raise that question.

Ms. RIVERS. Mr. Chairman, I wish to speak today on 2 issues: the severability that has been discussed here and also the free speech issue. I want to speak especially though to the idea that the unwillingness of the sponsors to include a severability provision in this bill is somehow an indictment of the bill.

As I said earlier, research shows us that only four bills in this entire Congress have progressed without a severability clause, four bills out of 4,965 bills. Virtually every Member in this House who has sponsored a bill, including everyone sitting on both sides of the aisle has routinely included that in their bill.

Now are we arguing that this is the only constitutionally controversial bill that this body has ever considered? Absolutely not. The argument seems to be that an unwillingness to accept a severability clause indicates a weakness, that somehow people who are supporting this believe that there is a problem constitutionally. I will point out if, in fact, the numbers I am given are correct and we see a lack of severability clauses in only a handful of bills, that means the chairman of the Subcommittee on the Constitution routinely does not have a severability clause in his bills, that the chairman of the whole Committee on the Judiciary routinely does not have a nonseverability clause in his bill.

There seems to be a standard for this bill unlike any other, and I think that that is a problem. Virtually every issue that comes before this body has this sort of clause. The gentleman from Pennsylvania (Mr. GREENWOOD) made a very good argument, that these items do not hinge on one another, that if they lose one, it does not cause the fabric of the bill to fall apart. They have value independently. No case has been made why this is different than any of the other bills that we have had considered.

I want to speak now to the infringement on free speech. The argument that is being made very subtly is that somehow Shays-Meehan creates regulation where none has ever existed before, that there are new regulations on activities that have previously been unrestricted in our political activities. This is not true. Independent expenditures have existing rules that any organization who wishes to take part in that kind of activity must follow. Those groups that wish to do issue advocacy must operate within the existing rules. Laws exist right now to govern how they must behave in these activities. Those who wish to participate in giving soft money still have rules under which they must operate, and the expenditure of soft money is regulated by laws in existence. They are not working very well, but they exist.

It is important for people who are listening to this debate to understand that there are existing regulations. It is impossible to argue that these activities cannot be regulated when they already are. The system provides for government oversight of these activities. We are arguing about what that oversight should look like, not whether or not it should be there.

The whole question that was raised earlier about soft money and that somehow it is a benign issue because candidates really do not know where the money comes from:

Well, I would be interested to know if there is anybody in this room who has never been to a national fund-raiser or a State fund-raiser where they have sat at tables from people who routinely give money to their party. I suspect there is not. But even if there is someone who has somehow missed that activity, all they need to do is read the paper. The Hill, Rollcall routinely lists who was at each event and how much money they gave. Nowadays you can even pick up a local paper in Michigan. We can read about how much money Amway gave. We can read about this person, that person. We know where the money goes, which means if I can read it, my constituents can read it. Everybody knows. One would have to be beyond naive to think that the public does not care or, even more unlikely, is not affected by the money in politics and the way it is handled.

Thomas Jefferson said when a man assumes a public trust he should consider himself as public property, which means we must have higher integrity, less selfish, more reasonable, more thoughtful, more forthright and committed to doing what is right for the entire Nation.

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

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

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I want to clear the record.

The gentleman from Massachusetts totally misrepresented what was going on here. I know the gentlewoman from Michigan (Ms. RIVERS) was overseen by the Chair, and I apologize for that. But the point was the gentleman from Mississippi (Mr. WICKER) had yielded to the gentleman from Massachusetts for a discussion and then ran out of time and was asking for an extension of time, and the other gentleman from Massachusetts (Mr. FRANK) ran down and objected to the time, cutting off debate from the gentleman from Mississippi.

Mr. Chairman, that is what happened on this floor. It is really unfortunate.

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

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, I would just like to remind people that in that disastrous 1974 law which, thanks to its nonseverability clause we are still saddled with its oppressive regulations of this day which have given birth to PACs, soft money, hard money, issue advocacy, independent expenditures, all of the symptoms of the disease that our liberal friends here are trying to focus on rather than the cause of the disease, which is the government regulation itself, that one of the parts of that disastrous law that was struck down, because it was a comprehensive law, just like Shays-Meehan is trying to be. And part of that was a ban on soft money. It was struck down, one of the first things to go. It has been gone since 1976. That was banned. Been tried before.

Mr. Chairman, they are doing the same unconstitutional thing again. It will be struck down.

I listened to the arguments from the other side: Well, no, we cannot go for the nonseverability clause of the gentleman from California (Mr. THOMAS) because the evil majority might sneak through some amendment they know is unconstitutional. We do not have to sneak anything through. This bill is unconstitutional, open and shut. It will be so declared when it goes through the courts. All we want then is a nonseverability clause in so the whole thing falls and certain vestiges do not remain that further clutter up the system and make matters only worse from what they are today.

Since this whole scheme of regulation was invented some 25 years ago, political participation in elections has declined, public cynicism has shot up. We hear people are spending more and more time fund-raising because these hard dollars have been unadjusted. The limits, since 1974, remain in place. That means we have to work a lot longer to raise the same amount of money. It becomes that much harder for challengers, because it is always easier as incumbents once they are there, and that is why we say this is an incumbent protection bill.

If we were acting in our own self-interest tonight, every one of us would vote for Shays-Meehan. It would lock in our seats in Congress because it makes it so much harder for a challenger to raise money and to be able to take on the system.

Eugene McCarthy even, the great liberal, admits he never would have been able to make his campaign if he could not have gotten a few large contributions from wealthy people across the country. He was clearly not in the mainstream in terms of appealing to what most people wanted, but he had a political and important statement to make.

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He was able to raise the money because he was not fettered by the very campaign law that we have in force which would be made worse by Shays-Meehan.

This is an important point to think about. Do we want just homogenized pabulum for the future of our political campaigns, something that will appeal to everyone, so in effect it appeals to no one; or do we want the sort of vigorous debate that was contemplated by the founders that the Supreme Court recognized in Buckley v. Valeo that is the essence of the American Republic, the American democratic experience?

That is why the Supreme Court gave us Buckley v. Valeo, wiping out much of the disastrous law, unfortunately, because it did not contain the gentleman from California, Mr. THOMAS', nonseverability clause, leaving much of it in place. That is why we have this myriad of problems that we are trying to address, and I say focus on the problem, not on the symptoms.

Soft money is a symptom. If we do somehow succeed in banning soft money, we will increase independent expenditures, because we still have a Constitution, and the court still says it is the right of people to speak independently, and it is their right. But when we skew the campaign law in such a way that responsible speech is discouraged, i.e., from the candidate who wants people's votes, who therefore has incentive to be responsible in the use of his speech, we disfavor that in favor of the independent expenditure.

We do not even know who they are. They can spend unlimited amounts of money, raise unlimited amounts of money in contrast to the candidate, and they are the ones who have more incentive to make the less responsible statements.

Why do we not empower the candidate? Why do we not do as the Nation's largest State, California, and a very large State in the East, Virginia, already do it? And it works well. They do not have the limits and they allow people the freedom.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Pennsylvania (Mr. ENGLISH) has again expired.

(On request of Mr. MEEHAN, and by unanimous consent, Mr. ENGLISH of Pennsylvania was allowed to proceed for 2 additional minutes.)

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, I am grateful to have the time.

Did the gentleman from Massachusetts (Mr. MEEHAN) want to address a question?

Mr. MEEHAN. No. I wanted to give the gentleman the time.

Mr. DOOLITTLE. I thank the gentleman.

Mr. Chairman, we believe as Republicans that we ought to leave the First Amendment alone.

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

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, is the gentleman aware that there are no spending limits in this bill?

Mr. DOOLITTLE. I am perfectly aware that there are no spending limits in the bill.

Mr. MEEHAN. So the gentleman is aware that there are not constitutional problems in this bill?

Mr. DOOLITTLE. Oh, there are terrible constitutional problems with this bill. How can the gentleman say that? This bill is filled with problems.

Does the gentleman really believe for a minute that this bill is constitutional?

Mr. MEEHAN. Mr. Chairman, will the gentleman yield further?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. So the gentleman did not favor the reforms after Watergate either?

Mr. DOOLITTLE. Mr. Chairman, I certainly did not. It is a disaster. It gave birth to the cancer we face today that you cite as the reason for your reform; your side gave us all of this monstrosity.

Mr. MEEHAN. Mr. Chairman, so the gentleman is not in favor of any limits at all?

Mr. DOOLITTLE. I thank the gentleman. That is correct. No limits.

Mr. DELAY. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. ENGLISH of Pennsylvania. I yield to the gentleman from Texas.

Mr. DELAY. I appreciate the gentleman yielding.

The gentleman from Massachusetts asked if we supported the 1974 law that was passed after the Watergate hearings. You bet we did not. Because there were things in there like limiting the expenditure of campaigns to $70,000. I mean, a whole campaign spending $70,000, trying to reach the voters. In the Senate they limited it to 8 cents per voter, 8 cents per voter. Do you know why they did all that? I say to the gentleman from Massachusetts, it is so they could stifle challengers and give advantages to incumbents.

That is exactly why we oppose the 1974 law that, most of it was struck down by the Supreme Court over time, and that is why we are very concerned about the severability of this one. We do not want another law like the 1974 Watergate incumbent protection plan, because it is all interrelated, it is all put together, and the gentleman from Massachusetts says, if we put one unconstitutional amendment here, it is a poison pill. Well, one more poison pill in a bottle half full of poison pills will not make a difference.

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

Mr. Chairman, I rise in strong support of both the Shays-Meehan bill, as well as the bipartisan freshman campaign finance reform bill. I think these bills take a large step in the direction we need to go in this country, the ability to take the big money out of the political system.

I find it amazing though, Mr. Chairman, that opponents to these bills claim that if there is a ban on soft money that our constitutional freedoms and liberties and free speech are in jeopardy, yet when I go home back to Wisconsin and listen to the people, they know, just commonsensically, they know there is too much money in the political system, too much big money being contributed, too much influence of money out here in Washington, D.C.

Why is this so important? Why do we need to have this debate and pass this legislation as soon as possible? As this chart demonstrates, Mr. Chairman, we are seeing an explosion in the arms race for big money in the political system. Back in 1987–1988, roughly $45 million in soft money contributions were contributed to both political parties. That jumped up to $86 million in the 1991–1992 campaign season, and then suddenly in 1995–1996, the last campaign season, it exploded to $262 million in soft money contributions to both parties. This is just the tip of the iceberg.

This is only going to escalate unless this body, the only body that can do something about it, takes some action as soon as possible. That is what this debate should be about. That is why these campaign finance reform measures are so important, because the people know there is too much money going into this, and it is only going to get worse.

I just have a couple more points to make. That is why we need to take action.

I am proud to have a Senator in my home State of Wisconsin, Senator RUSS FEINGOLD, leading the charge in this effort in the U.S. Senate, teaming up with Senator JOHN MCCAIN from Arizona in sponsoring the McCain-Feingold bill, one that suffered a fate that was unbecoming of this United States Congress. I commend the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) for the work that they have put in for many years of getting finance reform passed.

But perhaps it was a group of freshmen, and it behooves us as freshmen to sit up and take notice and keep our eyes and ears open to see how this place operates. Maybe it was a group of freshmen who had to come together and take a look at this from a fresh perspective, with new insight, and decide to work in a bipartisan fashion to try to eliminate the poison pills for both parties and draft something that would have a chance of passing; and I am very proud to have been a part of that process and the product that we produced. I want to encourage my colleagues that if Shays-Meehan goes down, we support the freshman bill.

But the severability clause is important, the amendment is important to discuss, because I do not believe the soft money ban is unconstitutional. I think we have solid constitutional case law that supports us with Buckley v. Valeo, which says that we can limit money, that is, soft money contributions, in order to prevent the corruption or the appearance of corruption in the political system. Anyone who takes notice of how decisions are made out here would see the appearance of corruption every day, with the amount of contributions being contributed.

I have a lot of respect for my friend and colleague, the gentlewoman from Kentucky (Mrs. NORTHUP) who was here a little bit earlier talking on the floor; but I was flabbergasted by some of the statements coming out of her mouth that she did not know where the soft money contributions were coming from to the parties and that she did not see any influence of big money in this political system. Well, I do not know where she has been for the past year and a half in watching this democratic process of ours work. I do not know where she has been for the last couple of weeks in watching the tobacco legislation and the fate that it suffered unfold in the U.S. Senate.

There is a direct link to big money in the political system. We are seeing the results of this day in and day out. But perhaps the most egregious example of what big money is doing in corrupting this political system of ours happened last year.

I came as a fiscally conservative Democrat, believing in fiscal responsibility, but also the need to invest in priorities in this country. I was very proud to be a part of the negotiations in trying to reach a bipartisan, balanced budget agreement that would put our fiscal house in order; and after the days and the weeks and the months of negotiating that balanced budget agreement last year, it finally came to a vote on this floor.

I cosponsored an amendment that would have given us 10 hours to look at that budget agreement, page through it, to see what all was in it before we were forced to vote on it. And it was voted down, that amendment, along party lines, and I could not understand. This amendment was not that unreasonable. The least we can do is step back, pause and look at the agreement before we vote on it, and I did not understand why it went down to such defeat as it did.

But I did 3 days later when it was discovered that the tobacco companies received a $50 billion tax cut that was never, we never had any hearings on it, it was never part of any of the discussion or the debate on the House floor. We certainly did not have any separate vote on this tax credit, and yet it was in there. The only reason it was in there was because of $11,293,000 worth of contributions from big tobacco.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. KIND) has expired.

(On request of Mrs. NORTHUP, and by unanimous consent, Mr. KIND was allowed to proceed for 3 additional minutes.)

Mr. KIND. Mr. Chairman, just to close, and I will just be a brief second before I yield to the gentlewoman from Kentucky (Mrs. NORTHUP), all we have to do is just take a look at where the contributions are coming from, and we start seeing a track, we start seeing the appearance of corruption, if not corruption outright, of what is taking place right now.

How did this $50 billion tax cut get inserted in this budget agreement without any knowledge on the House floor? Well, it was because the chief lobbyist of the tobacco industry went to the Republican leadership in this Congress, literally the night before final passage of this bill, and said, hey, because a pack of cigarettes is going to be taxed an additional 15 cents, we need a break in all of this. So there was a corresponding tax credit for the next 25 years for that tax increase on a pack

of cigarettes, and it was done behind closed doors without anyone else's knowledge.

Again, we just have to follow the money. There are 11,293,853 dollar reasons for why something like that would take place in this democratic process of ours.

Mr. Chairman, I would be happy to yield to the gentlewoman from Kentucky.

Mrs. NORTHUP. Mr. Chairman, I think it is important, considering what the gentleman says, that somebody respond to the cynicism of what he said, and particularly, about the tobacco bill.

I do not take, and never have, a penny of tobacco money, and yet the tobacco bill over on the Senate side is simply too big. There are reasons that people oppose it. I think that that is the sort of discussion that ruins political discussion on its value, and every time somebody disagrees with you, to say, see, they took money; or see, it is all the influence of evil.

The fact is, I do not take money, and I thought the bill got way out of hand; and it is a perfect example of why that kind of a bill that is that complicated can never pass unless we get some leadership from the White House that is involved in it and calls for it every single week.

Mr. KIND. Mr. Chairman, I think I got the gist of the gentlewoman's point there. The gentlewoman may not take the money, the parties take the money, and to be fair, the Democratic Party is also dipping into the tobacco till, perhaps not to the extent that the Republican Party is. No one has clean hands on this floor.

But the only body, the only people who are capable of cleaning it up are the ones right here, right now, and we have that ability to do it.

There is cynicism across the country, and perhaps there is some even in the gentlewoman's district, because I know there is in mine, those who feel that this democratic process is being taken away from the average citizen on the Main Streets of rural western Wisconsin, and it is going to large money, special interests that are dominating the political agenda out here in Washington; and that is what this debate is all about.

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

Mr. KIND. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman has received a lot of money, big money, $10,000 from a lot of unions, different unions, and I could go through them, but we do not have time because the gentleman does not have the time. My only point is, is the gentleman influenced by this big money that he received in his election?

Mr. KIND. Mr. Chairman, reclaiming my time, every Member in this House is raising some money. The money that I was receiving was from hard-working men and women.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. KIND) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. KIND was allowed to proceed for 2 additional minutes.)

Mr. KIND. The point, Mr. Chairman, is that understanding constitutional case law right now in the court's eyes, in the court's holding, is a quid pro quo relationship constitutes corruption, and a quid pro quo relationship is defined as a relationship where money is exchanged for preferential treatment. Perhaps there are coincidences that are beyond belief out there to take a look at legislation that is being passed out here that would certainly fit under any constitutional definition and would give us legal standing to ban soft money, as these bills do.

□ 2100

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

Mr. KIND. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. Mr. Chairman, I would ask the gentleman, is soft money given to candidates directly?

Mr. KIND. Mr. Chairman, reclaiming my time, no, it is contributed to the party. But we all know standing in this body, too, we all know standing in this body as well the soft money which was originally set up for getting out the vote, and that is now being diverted for independent expenditures and issue advocacy ads.

Mr. WHITFIELD. Mr. Chairman, if the gentleman would again yield, soft money cannot be used for independent expenditures. Soft money is used for issue advocacy. There is a big difference. Independent expenditures is expressly advocating the defeat or election of a candidate and soft money is not used for that.

Mr. KIND. Mr. Chairman, reclaiming my time, if the gentleman is claiming that soft money is not filtering back into the States and being used in issue advocacy ads, he has not taken a close look at our campaign system in our country today.

I can cite countless examples of how that is happening. The original intent of soft money contributions has been perverted beyond recognition today. That is a strong argument of why these finance reform bills are necessary today.

Mr. WHITFIELD. Why? What is wrong with issue advocacy?

Mr. KIND. Mr. Chairman, part of the issue advocacy component of these finance reform bills is merely asking these groups who are behind the ads to identify who they are so the American people know who is financing this and perhaps will have a better understanding of what the political motivation might be. Neither one of these bills would prohibit issue advocacy ads.

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

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

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

Mr. DOOLITTLE. Mr. Chairman, I would like to ask the gentleman from Wisconsin (Mr. KIND) a question, if he would consent to answer it. The gentleman indicated in his debate that we spend too much money on campaigns. I just wondered, I want to ask him what does he mean? What is too much money? Too much money compared to what? What amount of money is appropriate?

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

Mr. GILLMOR. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Chairman, let me show the trend. This gives a better idea of what too much money means to the average American throughout the countryside: When we start with soft money contributions of $45 million and $86 million and suddenly it explodes to $262 million.

Mr. DOOLITTLE. Can I get a simple answer to the question? How much is too much money?

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. DICKEY). The Chair would ask each Member to yield and reclaim time so that only one person is speaking at a time.

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, how much is too much money? I keep hearing this assertion made out here, we spend too much money on campaigns. How much should we spend?

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

Mr. GILLMOR. I yield to the gentleman from Wisconsin.

Mr. KIND. Mr. Chairman, where I come from, and perhaps this may not be true in my colleagues' congressional districts, but the average person in western Wisconsin believes that under the current finance system, even though it is legal for a wealthy individual or group to contribute a million dollars to either political party, that is too much money. That is ridiculous. It is unbelievable that this democracy of our size allows that to happen. That is too much money.

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, the gentleman refuses to answer the question. I just wonder, since if we add up all the money that was spent on congressional

House races in the last campaign, it amounted to about $218 million. That breaks down to about $3.80 per voter who voted in the election. $3.80. That is less money than we spent on bubble gum in this country.

The gentleman from Wisconsin, every time he talks about corruption and money corrupts keeps talking about the fact, and every time he says that he denigrates every Member of this House.

Mr. Chairman, he raised money just like we all do, and he is claiming that somebody in this House is affected by the money being raised. He will not answer the question, will not answer the question if he is affected by the tons of money he raised.

I am not affected by the money I raise. The gentleman talks about tobacco money. When the tobacco interests and the companies came to me to talk about the settlement that they made and the agreement they made with the President of the United States, I told them not only no, but hell no. I was not about to do what the tobacco companies wanted me to do.

So this whole notion that money corrupts. Then the gentleman has got to look at himself and look at himself in the mirror. Look in the mirror. Look how much money he raised. Has it corrupted him? No, it has not. He is a fine gentleman. Mr. Chairman, the gentleman is a fine gentleman and he is very much involved in this process.

So the point I am trying to make is that the Shays-Meehan bill and others are trying to restrict people's involvement, restrict their involvement in the political process as much as they can. For what reason? Frankly, they have good intentions, but the result of their intentions is incumbency protection.

Mr. GILLMOR. Mr. Chairman, reclaiming my time, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, it is quite obvious that there is not too much money in the system just by the facts. The amount of campaign spending as a percentage of GDP is relatively constant at 4 to 6 percent. We keep hearing these exaggerated claims that they cannot back up with any specifics.

Then, as the gentleman from Texas (Mr. DELAY) pointed out the charges that the system is corrupt, somehow we are all corrupt but nobody ever names anybody who is corrupt. We are supposed to create that pervasive feeling.

Mr. Chairman, this is destructive of our institutions and I for one have determined, that is why I introduced the bill to take off all the limits, I am not going to put up with this left-wing morality play. I am going to answer the charges every time they are made that we are spending too much money.

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, there is not anything more important than the discussion of public issues.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. GILLMOR) has expired.

(On request of Mr. WHITFIELD, and by unanimous consent, Mr. GILLMOR was allowed to proceed for 30 additional seconds.)

Mr. GILLMOR. Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, there is nothing more important in the discussion of public issues than for the public to be informed. In 1996, Procter & Gamble spent more money promoting its products, $5 billion, than we spend in campaigning for all elections in the U.S., Federal, State and local, $2.2 billion.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Before we proceed, the Chair reminds Members to refrain from profanity.

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

Mr. Chairman, I just want to make one note before I yield to the gentleman from Maine. We are hearing a lot of comment, people wanting to know how much is too much and talking about whose interests are being concerned. The perception of the American public is clear. They are upset about what is going on in politics and they have the clear perception, whether or not it is reality with respect to each and every Member here.

The perception is that money is a corrupting influence and that money is having an impact, so much so that when Bill Moyers spoke recently to a group, he did an interesting exercise. He had an entire group stand up and asked a third to sit down and identified that that third of the group represented those people who do not bother to register anymore.

Then he had a second third sit down and identified that that was the group of people in this country that while they may bother to register, they do not bother to go out and vote. So the remaining one-third of people represented just that small portion of people in this country that actually are voting now and, in effect, are electing their representatives.

Whatever the reasons are that the other two-thirds are not voting, one clear reason that people express as one reason is that they have the definite perception that money is adversely impacting this system.

Mr. Chairman, one of the speakers earlier talked about Mr. McCarthy running for President. Senator McCarthy, as a liberal, talked about the fact he did not have a campaign unless he had large contributions. Let me turn that around for a second and speak of what a well-known conservative, the Senator from Arizona, Barry Goldwater had to say.

> The fact that liberty depended on honest elections was of the utmost importance to the patriots who founded our Nation and wrote the Constitution. They knew that corruption destroyed the prime requisite of constitutional liberty: An independent legislature free from any influence other than that of the people. Applying these principles to modern times, we can make the following conclusions: To be successful, representative government assumes that the elections will be controlled by the citizenry at large, not by those that give the most money. Electors must believe that their vote counts. Elected officials must owe their allegiance to the people, not to their own wealth or to the wealth of interest groups that speak only for the selfish fringes of the whole community.

The American people no longer believe that that is the case, and that is one of the problems that we have, and the perception one of the reasons that we have to address campaign finance reform.

Mr. Chairman, I yield to the gentleman from Maine (Mr. ALLEN), who has asked for some time on this.

Mr. ALLEN. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. TIERNEY) for yielding. I want to get back away from some of this rhetoric about free speech back to what the Court itself has said. I want to get back to what the Court itself said in Buckley v. Valeo.

We know this debate is degenerating when we start talking about individual Members and what individual Members raise and whether there is actual corruption with respect to decisions made by any individual Member.

What the Supreme Court has said very clearly in Buckley v. Valeo, that the Congress has the constitutional right to regulate elections in order to minimize corruption or the appearance of corruption. And the Court said it is unnecessary to look beyond the act's primary purpose, to limit the actuality and appearance of corruption resulting from large individual financial contributions, in order to find a constitutionally sufficient justification for contribution limitations.

The question was raised earlier, I believe by the gentleman from Kentucky (Mr. WHITFIELD), what is wrong with soft money? I will tell my colleagues what is wrong with soft money. Right now we have a system, what is left of it after Buckley v. Valeo, that imposes individual contribution limits for individuals and for PACs in the amount of money that can be given to Federal candidates.

Since 1907 in the case of corporations, and 1940s in the case of labor unions, neither corporations nor labor unions can give to individual candidates. Soft money is no longer a loophole, it is a highway. It is the means by which very large contributions, hundreds of thousands of dollars from some corporations, millions or up to millions of dollars in some cases, are funneled to the

national parties. Then they are used for television ads.

Those ads may be issue advocacy, as the gentleman from Kentucky said. But what do those ads say? Watch them in the last cycle. They say: Congressman So-and-so is voting against the environment. Congressman So-and-so is doing this or such. Call him and tell him to stop.

Those are ads intended, they are absolutely intended to have an effect on an election and they are the reason why we need to ban soft money.

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

Mr. Chairman, I would like to just touch on a couple of points that I have heard during this debate. The first has been there is too much money spent in politics, or there is too little money spent in politics. I think neither one is actually the case.

Mr. Chairman, I think rather what we have is a structural problem in politics that the Shays-Meehan bill begins to address. That structural problem that we have is that we have got diffused cost and concentrated benefit.

Our Federal Government, as we all know, is a very big thing. It is $1.7 trillion worth of spending every year. And if we look at that issue of diffused cost and concentrated benefit, as a conservative we can see it in troubling spots. Again, people do not buy votes. I would agree with the gentleman from Texas (Mr. DELAY), I would agree with the gentleman from Arizona, I would agree with a whole host of folks on that very point. But it does buy influence. It helps in access.

The guy that is giving a Member $10,000 is a guy they are ever going to pick up the phone for or open the door to. Again, they cannot give $10,000; that is a rhetorical statement.

Take for instance the sugar subsidy vote. That is a classic example. I mean, here is a program that costs the American consumer another $1.2 billion a year in the form of higher sugar prices. It is hardly the kind of thing that I could sell back home in a town meeting. There are always a handful of domestic sugar producers and consequently districts that are affected in our country. Yet all those benefits go down to truly the hands of the few.

In the case of the sugar subsidy, we are looking at $60 million a year that goes in personal benefit for instance to the Fanjul family. The Fanjul family, they are not American citizens. They hold Spanish passports, but they are on the Forbes 400 list and they have yachts and helicopters and a whole host of things.

□ 2115

All this bill is about is trying to limit their level of access versus the level of access of a person in my district who lives in a very simple trailer in Moncks Corner, South Carolina. I think that that is part of the issue that we are dealing with, not too much money, not too little money, but an issue of diffused cost and concentrated benefit in a very big government.

Two, one of my colleagues was earlier holding up both the New York Times and I think it was U.S.A. Today, pointing out how the editorial page in the New York Times was, I think, $85,000; and U.S.A. Today, I think it was $75,000. The point was, hey, they are not controlled in the way they get to advocate a point, but Shays-Meehan would control others.

That is a good thing as a conservative. They are not in the business of arguing for ethanol subsidies. They are not in the business of arguing for grain contracts or for weapons treaties. They are not in the issue of government contracts, for that matter.

But what you have here is a case when you do want their interests limited, because you do not want somebody trying to sell missiles to China to have unlimited access on that front.

The third point that I would make just in the debate that I have been hearing is there has been much discussion, I think I even heard the words verbatim "we believe you ought to leave the First Amendment alone." But the bulk of the people that are suggesting that, and I would say that with all due respect to my colleague from California, would be people that may have voted for, for instance, the religious freedom constitutional amendment last week.

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

Mr. SANFORD. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman is talking about me. The whole religious liberties constitutional amendment was to protect the First Amendment of freedom of religion. It had nothing to do, as the gentleman suggests, in shutting down freedom of religion. It is too big, two different things.

Mr. SANFORD. I think that is the jump in logic. In other words, to suggest that limiting of soft money is eliminating of speech is not the same thing.

Mr. DELAY. If the gentleman will yield, the courts have held so.

Mr. SANFORD. But in a 5-4 Supreme Court decision, they have also held in a different version a separation of church and States than the one that you voted for.

Mr. DELAY. No, no. The Supreme Court said that we could not practice openly and freely religion in the schools. You are right. We have as a body the opportunity to say, no, you are wrong. We are going to pass the constitutional amendment protecting the freedom of religion. It had nothing to do with shutting down the freedom of speech or religion.

Mr. SANFORD. Which is a great thing. In other words, that is what we are charged to do by the Founding Fathers. I think in the same way, it is a very legitimate point, a very legitimate point to say that, in this debate, we ought to look at limits on the degree to which people can influence a giant $1.7 trillion yearly machine.

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

Mr. Chairman, I listened with great interest to the debate this evening. I rise to support the Thomas amendment. I also rise to discuss some very interesting comments made by my friend from Massachusetts, followed up by my friend from Maine.

I appreciate my friend from Massachusetts quoting the late great Senator from my State, Barry Goldwater. I think it is important also to remember the context of Senator Goldwater's quote, because, ladies and gentlemen of the House and ladies and gentlemen of America who join us beyond these walls via C-SPAN, a check of the complete Goldwater record indicates that our late great senior Senator was talking about liberty and freedom of expression within the context of those who had that right denied by the coercive actions of organized labor bosses who reached into their pockets against their will to advocate causes with which the rank and file disagreed.

Indeed, I note with interest, this dispatch from U.S.A. Today, May 30, 1996, Dateline, Portland, Maine, the campaign in which my friend from Maine was involved, "By air, the AFL-CIO has spent more than $500,000 on a series of television ads criticizing Jim Longley's votes on Medicare, student loans, and private pensions. The ads have helped make Portland the political advertising capital of the Nation. From April 1 through September 15, 6,968 ads aired or 41 per day."

My friend from Maine also offered elucidation of what he called the soft money process. I believe he should know firsthand, as chairman of Clinton-Gore 1992, which was the vast recipient of vast amounts of soft money, firsthand, the Clinton-Gore ticket and the minions of the Washington labor bosses got help that was never really documented.

Again, let me give credit to the left, because in employing so-called campaign finance reform, they ensured in 1974 and years before that there would be no legitimate documentation of the amounts of money spent by the Washington union bosses to the extent that a study from Rutgers University shows us that, instead of $35 million spent by Ball Sweeney and his ilk, they instead spent between $300 million and $500 million to try and influence elections in the Congress of the United States.

Yet, the self-same recipients of that ultimate special interest money would

come here to this floor and act as the paragons of virtue and tell us that we need to change our system.

Barry Goldwater was right about something else. When he discussed Bill Moyers, and I thought it was interesting to see the jump from Bill Moyers to Senator Goldwater, when he said, when he said how hypocritical.

The fact is that we have seen the corruptive influence of people reaching into the pockets of other people against their will, subverting those First Amendment rights, free from documentation, free from the spotlight of the Washington media, except in rare cases. We see all too often through the clear glasses that Senator Goldwater wore, which I wear in representation on my lapel, the real story here and the real culprits.

Two things should happen if we want real campaign reform. Number one, I would suggest to my friends on the left and those well-intentioned friends here on the right, if you want real campaign reform, obey existing laws.

I would note with interest the comments of my dear friend from Wisconsin who seem to imply that the reason the White House strayed into suspect ground and may have violated these rules was because of the current system. No, I would suggest otherwise.

I would suggest that there was a clear, sadly mistaken desperation for cash and a win-at-all-costs mentality that cannot be excused by any type of misdirection play, by any type of masquerading in the public interest to claim that somehow let us clamp limits on those who seek donations of free will from free American citizens.

Let us, instead, maintain the current system, allowing the union bosses to reach into the pockets of every working American who happens to be a member of a union, subverting their rights, and taking their money to go to causes with which they may disagree.

I would suggest, again, to this body, that we should adopt the Thomas amendment. And I would suggest further to this body that let us have a clear examination of what, in fact, has transpired in the past election, in elections before, and let us tell the entire story. Senator Goldwater was talking about the freedom to use contributions, not to have money cynically taken away.

Ms. HOOLEY of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentlewoman for yielding to me. Before the gentleman from Arizona (Mr. HAYWORTH) leaves the hall, I would just like to raise a question.

The gentleman stated that one of the things we should do is to obey existing law. I agree. I agree with that. The gentleman was not in any way suggesting that money spent in any individual campaign of any Member was not consistent with existing law, was he?

Mr. HAYWORTH. Mr. Chairman, will the gentlewoman from Oregon yield?

Ms. HOOLEY of Oregon. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Chairman, the gentleman is making my point for me. What I am suggesting that, through previous design of so-called campaign finance reform, a large segment of this society, through coercive tactics, have their contributions undocumented. To that extent, the law is silent.

Mr. ALLEN. The law is silent.

Mr. HAYWORTH. Under a lawyer's definition, that would be existing law. It makes the point that there are those following the human impulse of gaining the system for their own selfish needs.

Ms. HOOLEY of Oregon. Mr. Chairman, reclaiming my time, I yield to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, the point the gentleman makes is actually the right point, because nothing that happened in that election broke existing law. The fact is that the gentleman would like to change the law as with respect to labor dues. So he would seek to change existing law.

But the fact is, what we are here about today is to try to deal with the influence of money in politics. That does not mean that there is some level that is so big that we have to deal with it. What happens with bubble gum, what happens with yogurt is irrelevant.

What we are talking about and what the reformers are saying is this, we need to break the link between Federal candidates, Federal office holders, national parties, agents of the national parties, and giant contributions.

Mr. HAYWORTH. Mr. Chairman, will the gentlewoman yield so that I might ask my friend, the gentleman from Maine, a question?

Ms. HOOLEY of Oregon. No.

Mr. ALLEN. The gentleman has had his time.

We are trying to break the link, because as the Supreme Court has said on several occasions, we can, this Congress can enact reform in order to prevent appearance of corruption or corruption.

What the Court has also said in another case is that it is because of the risk that corporations that accumulate wealth in the course of their business activities, because of the risk, that those corporations, big money in this society, could unduly influence elections. The Court has said it is appropriate to regulate or to bar contributions from corporations.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Mr. ALLEN. Most recently, in the Colorado Republicans case, which was the case dealing with hard money limits, the Court said, if it appears to Congress, if it appears to Congress that the existing hard money limitations could be circumvented because of contributions to the political parties, i.e., soft money, then the Congress could rethink whether or not it wanted to change limits or create limits on contributions to the national parties.

That is why we are here. Because what used to be a loophole is now a highway because there is too much money in this system, soft money. It is being used to influence Federal elections. We need to shut down this system.

It is, in fact, soft money, these unlimited contributions from corporations, from unions, from wealthy individuals to the national parties in the last cycle that is subverting our political process. That does not mean that you go to any one individual and say this result was influenced by big money.

What we have got in this system, in this country right now is a political system gone awry. We need to change it.

What we have got with the Thomas amendment is an attempt to subvert the Shays-Meehan bill. That is what is going on here. The folks who are trying to improve the Shays-Meehan bill with this amendment, with this proposed amendment, are not supporters of reform generally. They are trying to undermine reform. There is no question about it. It may be an argument about free speech, may be an argument about other forms of money. But the fact is that we have got to have campaign reform. We have got to have it in this session. It means a ban on soft money. It means voting down the time.

Ms. HOOLEY of Oregon. Mr. Chairman, let me just briefly end by talking about this is really something the American public wants. It is something that we have with the Shays-Meehan bill. We have a bipartisan bill. All you have to do when you talk about influences, all you have to do is look at what has happened to the tobacco bill.

Somehow or another, we have to restore the faith in the American public so that everyone has a voice in our system. We need campaign finance reform, and we need it now. The Shays-Meehan is our best chance.

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

Mr. Chairman, I want to make a couple of comments as I listen to this debate tonight. First of all, I am reminded of the words of the gentleman from New York (Mr. SOLOMON) last night, after an extended debate, that we should remind ourselves that we need to, under the 5-minute rule, move forward at some point and conclude debate and continue on to the next amendment.

The present amendment is the Thomas amendment. I know that we are engaged in a vigorous debate on the underlying amendment, the Shays-Meehan provision, but I think that we need to keep our eye on the ball and to move on so that we can get to other amendments in this process.

I also wanted to make the point that I appreciate my fellow freshmen are here. The gentleman from Tennessee (Mr. WAMP), I believe it was, made mention that freshmen are still warm to reform. I see my friend the gentleman from Wisconsin (Mr. KIND) and the gentleman from Maine (Mr. ALLEN). Both of those gentlemen have been very active participants in the freshman task force.

□ 2130

And the freshman bill that will come up later on addresses some of the serious problems that have been raised.

My friend, the gentleman from Arizona (Mr. HAYWORTH), makes mention of the last campaign and the problems in it. And I do not believe that a lack of enforcement, and I say this as a former Federal prosecutor, the lack of enforcement of laws has never been a reason for us not to improve the law.

Certainly we ought to enforce the law, but it is a separate issue when it comes to improving the law. And there were problems in the last campaign that chased after soft money, and for that reason, we should remedy it.

A question was raised, whether we could cite any instances of corruption. Well, that is what some of these committees are investigating, the instances of corruption that deal with soft money and contributions from corporations. But I do not think the issue is necessarily corruption.

I believe the issue is confidence of the American public in our system. And I will point to instances on both sides of soft money.

On the Democrat side, the $600,000 contribution from the Loral Corporation to the Democratic National Committee at a time when that organization was under investigation when they were asking for approval of a technology transfer to China. That hurts the confidence of the American public, and it should not have been done. We should ban that kind of contribution; whether it affects the system or not, there is the perception of it.

On the Republican side, I will cite the instance of Microsoft. When they are under investigation by the Department of Justice, they should not be able to give $200,000 in contributions to a national political party. Whether it affects the debate or not, the perception of the American public is that it does. And that is what I am concerned about, is the confidence.

So I believe soft money is an issue. I think it is an important issue that we must address. And even though I oppose the Shays-Meehan bill for other reasons, I compliment my fellow freshmen for being concerned about this issue and wanting to improve the system.

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

Mr. HUTCHINSON. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Chairman, I just want to ask a question of my good friend from Arkansas. In his days as a prosecutor, did he petition for the legislature to change laws in lieu of prosecuting those who had broken existing laws?

Mr. HUTCHINSON. Mr. Chairman, reclaiming my time, certainly we should never do anything to substitute for law enforcement. The gentleman is absolutely correct. And I am fully supportive of strengthening our ability to enforce the laws. Our committees should be investigating any wrongdoing.

But the problem is clear, and that is soft money. That was the problem, the chase for, in the last campaign. And we should not neglect addressing that problem because of enforcement problems.

I want to come back, and I love this debate, but I think the gentleman from Connecticut is entitled to a few moments here, so I will be glad to yield to the gentleman from Connecticut (Mr. SHAYS) if he has some areas that he wants to wrap up. And, hopefully, we will conclude this debate.

Mr. SHAYS. Mr. Chairman, I thank the gentleman. I have not asked for my 5 minutes, but I will just say that we have strayed a bit from the amendment, and I am concerned that we have the potential for hundreds of amendments, so we maybe should try to come to a debate on certain amendments and then go on to the next amendment. We can still make some of the same points, because they are related.

But what the gentleman from California (Mr. THOMAS) proposes is to strike the severability clause, which basically says that if any provision in this act or amendment made by this act, or the application or the provision or amendment to any person or circumstances is held to be unconstitutional, the remainder of this act and amendments made by this act, and so on, are still constitutional and remain in effect.

That is a clause that is in most bills. It was in the congressional accountability bill, under the Contract With America, voted for by the gentleman from Texas (Mr. DELAY) and other Republicans, all other Republicans. It was in H.R. 65, the Victim Restitution Act. The gentleman from Texas voted for that as well. It was in the Regulatory Transition Act of 1995 as well as in our Contract With America. This was introduced by the gentleman from Texas (Mr. TOM DELAY). It is the same severability clause, and it passed as well.

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

First, Mr. Chairman, I want to say that this is the first night of extended debate, and I would say we are all learning from this process. We are all learning as to how much time we should be asking for. We have Members who come and others who are waiting. I kind of hoped that the way the process would work was that we would ask for 5 minutes, and if we asked for an additional 2 minutes, it would be granted without objection, and if there is a reason to extend even further, that it will be the same for both sides. But I think there were some moments where we probably erred in that process.

Also, there were times in this debate where I heard some strong attacks and concerns with other Members, and we just started to go to it and forget what we are debating. We have lots to debate here, and I truly believe we will cover all the territory by the time we do all of the amendments. But right now, what we are debating is the severability clause and whether we should take it out of the Shays-Meehan amendment.

In some cases we pass bills with the severability clause and in other cases we are silent. And when we are silent, the court basically follows the process of considering a severability clause included. But this is a case where the amendment is actually saying that if any part is unconstitutional, the whole bill should be eliminated. There are only a handful of times in a number of years that this provision has been offered. That is my understanding.

And so I say, first, I believe the severability clause should be included, like it was in with most of our Contract With America, like it was with the bill that the gentleman from Texas introduced in the Contract With America, the Regulatory Transition Act of 1995. He introduced it, we voted on it, it passed.

It was in the telecommunications bill, thank goodness, because one small part was declared unconstitutional and the rest remained intact. It was in the Brady bill, thank goodness, because one part of the Brady bill was declared unconstitutional, but not the rest of it.

I believe that some want this amendment because they think that this whole bill that we have—which deals with soft money, which deals with recognition of sham issue ads, which codifies Beck, which has improvement of FEC disclosure and enforcement and deals with franking and foreign money and fund-raising on government property not being allowed—some think they are all intertwined. I do not. I think some parts can stand on their own.

Obviously, everybody will make up their mind. We are going to vote on this tomorrow. But I believe that the

other danger is that other amendments will be attached. We will oppose some amendments, but some will be attached because nobody will have the courage to vote against certain amendments because they will be difficult politically. And I would not want to risk the chance that those amendments in particular would then disqualify the rest of the bill.

So I would conclude by saying that we need to oppose this amendment. It is a provision that is in most bills and it certainly should be in this one. And when I see parts of the legislation in 1976 that were declared unconstitutional and other parts that were not, I thank goodness the other parts still stayed there. We can always come back and make changes where we think there is an unconstitutional element that has been taken out, and just come back and address that issue.

So I strongly oppose taking out the severability clause and, in particular, replacing it with a statement that says if any part is unconstitutional, the whole bill goes. That, to me, is just an attempt to kill meaningful campaign finance reform.

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

Mr. SHAYS. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman keeps referring to the fact that I introduced bills and voted for bills that had severability clauses. I do not know what that has to do with this case where we are making the case that when we are talking about an overall campaign structure, one affects the other.

That is the case we are trying to make here; one affects the other.

Mr. SHAYS. Reclaiming my time, Mr. Chairman, the gentleman did make that case, but in addition, acted like this was a very extraordinary event and that somehow, by our putting the severability clause in the bill, we feared that another part was unconstitutional.

What is fair is fair. I do not believe that when my colleague introduced and voted for the Contract With America, those various bills, that he feared that various parts were unconstitutional. I just want to say that this is a very usual clause to be in a bill. It should stay there. And I hope tomorrow, when we all come to this Chamber, we vote to defeat this amendment.

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

Mr. Chairman, I want to begin by commending the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS) for all of their work on this legislation. They have spent many, many, many months crafting this legislation to address many of the underlying problems that we have in our current campaign financing system in this country; problems that threaten this institution, that threaten many of our democratic institutions; problems that are corroding the way we make decisions in the House of Representatives, in the United States Senate, and within the administration.

They are problems that the American people demand that we address and that we rectify and that we once again bring them back in to our democratic decision-making process and not bring them in based upon the size of their wallet, the size of their contributions and who they know, but rather, on the merit of their arguments. That is what this, the People's House, is supposed to be doing.

This discussion about the severability amendment is simply a ruse to attack this legislation and to certainly set it up for later attack if it looks like, in fact, it is going to pass. We draw, very often, very complicated legislation in this House. And we know, very often, that we are treading to the end, because people, in fact, are trying to affect court decisions when they draft legislation, when they draft amendments. And to protect the underlying legislation, very often we put severability clauses in those pieces of legislation.

We do it in the State legislatures, we do it in city councils, and they do it in the United States Congress, and we have for many, many, many years.

In this particular legislation, the gentleman from Connecticut and the gentleman from Massachusetts have addressed a number of the problems that we confront in our campaign finance system. Each and every one of those remedies could stand by themselves, and they are very, very important to improving our system. They are very, very important to improving the participation of the American public in that legislation. That is why we want the severability clause, because of those provisions by themselves.

So if a constitutional challenge is brought on one of these single provisions, we will retain the best of this legislation, and that will become part of our campaign financing system, and we will, in fact, have a better campaign financing system than we have today. We will have a less corrupt campaign financing system than we have today. We will have a campaign finance system that encourages people to participate, which our system does not do today. That is why we need this severability.

To throw this up and suggest that somehow this is a trick and this is to allow us to do a lot of unconstitutional things is just simply not the case. The authors of this legislation are far more careful about their legislative duties than that. The people that they have consulted have guided us and are relying on past court decisions.

Yes, we may not do it perfectly, but we should not be in a position where one challenge against a very small part of this legislation can throw out so many other parts of the legislation that are very, very, very important to us.

Ms. ESHOO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from California.

Ms. ESHOO. Mr. Chairman, I thank my colleague from California for yielding to me, and I want to commend all of the sponsors of the Meehan-Shays legislation for the work that they have done, the source of encouragement that each one, especially the original sponsors of the bill, has been to all of us that have yearned for and hoped to make the kinds of changes that we are seeking to make in the campaign financing system that we have today.

We hopefully all remember the day that we came to this floor and we raised our hands and took our oath of office, and we had families sitting in the gallery. I do not think that there is a moment in my life that quite matches that one: my hopes and aspirations for the future, the good wishes of my constituents, whether they voted for me or not.

We start out, really, I think, with 100 percent goodwill. I think the only thing that could match that day was the day that my two children came into this world.

I have to tell my colleagues that if there is one thing that is constantly rubbing down or taking the polish or the gleam off of that magnificent day, that very first day when I became a Member of Congress, is the system by which we are elected, that is, the money in the system. We know it is broken, we know it cannot be defended, but right here on the floor tonight we are debating an amendment that is being offered to this very good piece of legislation.

In my view, it seeks to throw some dust in the wheel, to clog up the wheel, throw sand into the wheel, to jam it up.

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

If we are going to talk about constitutional issues and freedom of speech, it seems to me that none of us have very much freedom of speech if we are drowned out by millions of dollars. And so we have to, in the House of Representatives, in the Congress, really speak to the hopes and aspirations of the American people and say to them, yes, we are capable of addressing this; we can rebuild the confidence that the American people should have in this institution.

They know it is broken. They know much of what goes on here is not on the level.

□ 2145

They know that money speaks to this process and that it warps it and that it is corrosive.

We have and should have to corral the political will in this place to reform the system. No bill is perfect. Why? Because human beings are not, so no piece of legislation is perfect. But this is sound. It addresses the things that are really broken down.

Mr. DELAY. Mr. Chairman, would the gentlewoman yield?

Ms. ESHOO. Mr. Chairman, I would love to yield, but I do not have the time. I would like to complete my train of thought. I have been on the floor since a quarter of 7 this evening to do this.

We can do this, but we have to be very careful to distinguish excuses, throwing sand in the wheels and jamming them up and those issues that really mean something. We are all pros here. We are all pros here. We know what can be done with parliamentary maneuvers. Try to explain that to your constituents. They know it is not for real, they know that there are excuses coming out of this place.

Why do we not reach for the brass ring and say to the American people, "You know what? We can do it." It says, "In God we trust." In the people we trust. 68 percent in the poll in the Wall Street Journal of the American people said they wanted this system reformed. We can do it, Republicans and Democrats.

Yield and do not succumb, my colleagues, to these things that are being thrown in as excuses, because that is what they are. Let us come through the 105th Congress the last few days that we have, legislative days, and show the American people that we are worthy of their trust, that we can move legislation through this place where it is not encumbered by any money except the interests of the people that we have come here to represent.

Remember that first day our excitement. If we can come to this floor having passed this legislation, having it signed into law, I predict that every day we come to this floor we are going to have that same exhilarating feeling that we did the very first day when we raised our hands, took our oath, and saw all of the endless opportunities without anything getting in the way.

Again, I thank my colleagues. They have given me a great deal of courage and inspiration by what they have fought for and kept the faith. And we are going to keep the faith, and I have trust that we can do this.

Ms. PELOSI. Mr. Chairman, will the gentlewoman yield?

Ms. ESHOO. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank my colleague for yielding.

I rise to thank the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS) for their leadership and their courage for bringing us to this moment of truth. Are we for campaign finance reform, are we for cleaning up the system, or not?

My colleague mentioned the first day when we were all here and raised our hands and pledged to take an oath to uphold the Constitution of the United States against all enemies, foreign and domestic. The greatest enemy to our Constitution, foreign or domestic, is the money in the political system that undermines and mutes the voices of the American people.

Mr. Chairman, when Washington was first established as the capital of our country, it was a swamp. In 200 years, it has returned to being a putrid swamp contaminated by the impact of campaign money into the system. Again, against the wishes of the American people.

I rise against this amendment because I see it as an attempt to unravel and undermine the courage of the Meehan-Shays, Shays-Meehan bill. This is a good bill. It strikes a balance.

Mr. DELAY. Mr. Chairman, would the gentlewoman yield?

Ms. PELOSI. I am sorry, I do not have the time. The gentleman knows I would if I could.

It strikes a balance. That is why we have to keep it intact. We have come to the moment of truth. I ask my colleagues to vote "yes" on Shays-Meehan, "no" against the Thomas amendment. Let us face this moment of truth. The American people are watching. Let us drain the swamp.

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

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

I think when we look at what happened with the campaign finance reform after Watergate and the provisions that were struck down by the Supreme Court, we see a patchwork of legislation that is left that has led to a lot of the problems that we have here today.

Mr. Chairman, I want to refer to a news article that was in the Clayton County, Georgia News Daily back on May 23 of this year. The longest reigning speaker of the house of any state legislators in Georgia, his name is Tom Murphy. And the quote in the headline was by Mr. Murphy. "I worry about the future."

It goes on to say that:

> If Tom Murphy could do it all over again today, he would steer clear of politics. Murphy, the longest tenured serving speaker in the country, told the Clayton College and State University Alumni Association that politics has deteriorated into an arena of viciousness and untruths. The candidates are getting so careless with the truth that I worry about the future of this state and the nation. What truly worries me in the next few years, unless something happens, is you will not get a decent person to run for office.

Mr. Murphy never mentioned finances. He never mentioned money. He mentioned untruths and viciousness. That is what we need to focus on. The gentleman sent me an article the other day of a quote, and the quote reads as this. It is titled "Honesty":

> We can afford to differ on the currency, the tariff, and foreign policy; but we cannot afford to differ on the question of honesty if we expect our republic permanently to endure. Honesty is an absolute prerequisite to efficient service to the public. Unless a man is honest, we have no right to keep him in public life. It matters not how brilliant his capacity. Without honesty, the brave and able man is merely a civic wild beast who should be hunted down by every lover of righteousness. No man who is corrupt, no man who condones corruption in others, can possibly do his duty to the community. If a man lies under oath or procures the lie of another under oath, if he perjures himself or suborns perjury, he is guilty under the statute law. Under the higher law, under the great law of morality and righteousness, he is precisely as guilty if, instead of lying in a court, he lies in a newspaper or on a stump; and in all probability the evil effects of his conduct are infinitely more widespread and more pernicious. We need absolute honesty in public life; and we shall not get it until we remember that truth-telling must go hand-in-hand with it, and that it is quite as important not to tell an untruth about a decent man as it is to tell the truth about one who is not decent.

That was by Theodore Roosevelt in 1900.

Mr. Chairman, yes, we can change campaign laws. And there are probably some that need to be changed. We have not investigated thoroughly enough yet to determine just which ones. But that is not the problem. The main problem is compliance and untruths. The change in statutes will not change either compliance or untruths.

It has been mentioned about unions and dues from union members and how in the 1996 campaigns some of them were erroneously used. I have with me a flyer that was published in Georgia. On the back of it it says the "Georgia State AFL–CIO Not Profit Organization." On the inside the cover says their rules and it walks through several things, Medicare, pensions; and it goes on to say, and this is entirely against the law, the current law, this is where compliance has not been adhered to, it says, "Vote no on Collins. Vote no on Milner and Collins."

That is where your noncompliance comes in. The untruths are in the reading of this. We can change the law. We can change every law in the campaign finance arena. But if we do not change the hearts and the souls of those who are involved in the government, we are not doing anything.

That is the problem. It is not words written down. It is inside the individual. It is not how we get here as much as what we do to get here and what we do after we get here.

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

Mr. Chairman, this has been a long evening. But then again, this has been a long wait. I have been in the Congress now for 6 years trying to find some way to get campaign finance reform passed. And I remember when I first got here, sort of a brash young freshman legislator and I got together with another member from Oklahoma. He is a great Member, had a lot of experience, Mike Synar.

Mike had a lot of courage and he was smart. And he sat down with me and he said, "If you want to work on campaign finance reform, boy, let me give you some tips. The first thing you have to do is you have to work with Republicans. Because if we, as Democrats," and we were the majority party then, "if we, as Democrats, propose our bill, it is not going to have credibility. We have got to get Republicans on board. So the first thing you need to do is find a group of Republicans who are interested in truly passing campaign finance reform."

And that is what we did. Every year that I have fought for campaign finance reform, I have worked with Republicans so that we could level the playing field equally among Democrats and Republicans.

The other thing that Mike Synar said was, "You know what? My experience is that independent expenditures are the thing that are going to kill American politics because congressional elections are not going to be about the people who live back home anymore."

Mike Synar knew something about independent expenditures, because the National Rifle Association and other groups spent millions over the years trying to defeat him. So he said, "Whenever you come up with a bipartisan bill, you got to make sure that you deal with independent expenditures."

And here we are, 5 years later, finally on the verge of having a vote before this House. And it gets emotional at times because I know how it feels having worked so long and so hard on a bill to have it misrepresented on the floor. It gets frustrating.

Members say the bill is unconstitutional. We have been working with constitutional scholars on this for the last 5 years to make sure it does pass constitutional muster. And other Members bring up the campaign reports of whatever Member stands up. It is irrelevant.

The bill that is before us does not deal with each individual Member's campaign report. It deals with soft money and independent expenditures. It deals with giving the FEC the teeth it needs to enforce the laws.

Why would we want to go after soft money, my colleagues ask? We have spent millions of dollars investigating and having public hearings on the soft money abuses in the system. Everyone in America, whether they be Democrat or Republican, agrees the soft money system is totally out of control.

This is relatively new by the way. In 1976, there was not any soft money spent in the presidential election. In 1980, only $19 million was spent. In 1984 there was $22 million spent. In 1988, there was $45 million. 1992 it goes up. In 1994, it goes up. And now it is $263 million. This is a recent phenomenon in American politics, soft money or the expenditures over and above the legal limits that are in force that are in law and that are constitutional. That is what this debate is really all about. That is why we are here.

I want to tell my colleagues that I believe we are on the verge of a majority of Members, Democrats and Republicans, who are ready to vote for Shays-Meehan but it is going to be tougher than that. As if it was not tough enough to form a consensus among Democrats and Republicans, a lot who have had great ideas about campaign finance reform. No, it is getting even tougher.

□ 2200

We have the potential of 260 to 270 amendments. Tonight we have been debating since 5:30 and we are not through the first one yet. That is what we are up against. It is a challenge. Tempers are going to get short at times, short fuses, when representations are made that are not accurate. But I believe we are on the verge of a historic vote, a vote that will have Democrats and Republicans joining together, not only in a bipartisan way but a bicameral way, because the other body has already voted, a majority, for this bill.

We can pass this bill. We can pass this bill. I urge Members of both sides of the aisle to defeat this amendment tomorrow morning, because it is a poison pill. It kills the bill. And after we are finished with that, I urge Members to get rid of these poison pill amendments and pass this bill and have the courage to move forward.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this week the Lawyers Committee on Civil Rights celebrates and commemorates its 35 years of fighting for justice in America. Its theme is Answering the Call for Equal Justice.

As I listened to my colleagues, I want to agree with the gentleman from Georgia. It is a question of compliance. But it also is a question of laws. The call for justice is, one, to have the right law, but, as well, to be able to comply.

The Shays-Meehan legislation dealing with real campaign finance reform brings both of those to the table. It calls for justice for America. It emphasizes democracy. It puts the control of politics in the hands of the people. And it provides us with the law which we should obey.

We can spend a lot of time tonight talking about money in the Buddhist temples, or maybe we should talk about the alleged loan schemes to funnel $1.6 million of foreign cash into U.S. elections through the National Policy Forum which then-RNC head Haley Barbour solicited these funds on board Hong Kong businessman Ambrous Young's yacht in the Hong Kong harbor. We can stand up and call the roll of the many times that we have not complied with our own laws. But maybe those laws are faulty, and maybe men and women have frailties and character flaws. Now we have the time to deal with real campaign reform.

We have already heard that 81 percent of the moneys that fund campaigns come from men, only 19 percent from women. What it simply says is we have got to even the playing field. We have got to enhance, if you will, the pennies, the nickels and the dimes that women give, the dollars, the five-dollar bills, so that the moneys lift everyone equally. But obviously some of our gentlemen control these large pockets of soft money. They control PACs. And so there is an unequalness there.

I want to see everyone have an access to this political process and to be heard. My good friends on the other side of the aisle realize that this amendment on severability is a poison pill, so that if you find one sentence in the Shays-Meehan legislation as being unconstitutional, all the work that we have done throws out, throws out a very valid piece of legislation.

What the American people would like to see is the real words of the candidates, one on one. They would like to see some of our media provide the free time so that we can be heard one on one. This legislation goes to the question of all the signs of outside dollars that may come in and influence negatively the process of the American people. I believe the Lawyers Committee for Civil Rights is right, calling for and answering the call for equal justice. The Shays-Meehan legislation frankly tells you how to do it. Take all of the excess money out of this process. Let democracy be run truly by those who go to the polls every single time there is an election, by those who read and analyze, by those who believe in philosophies and make their decisions at the voting booth based upon the decision that has been given to them by this Constitution and by this flag, the right to make a democratic choice.

I would hope my friends in the 258 amendments that we have, we do not even have 258 more days in this year, much less in this session, would realize that we need to get down to the business that the American people have asked for. We need to lift all boats at the same time. We need to equalize and make sure that the least of those who have nothing more than their vote can be heard in the halls of Congress.

Lastly, Mr. Chairman, let me say something. There was a lot of disagreement over this legislation, and I am not here to point any fingers. But we voted on bankruptcy legislation just a couple of weeks or so ago. In this article by the Wall Street Journal, it said that the lawyers and bankruptcy judges and law professors and even the National Bankruptcy Commission said the bill was not the right bill. But in the same article, it said that the American Financial Services Association paid a lot of money in campaign contributions, and we have a bill that may hurt working men and women. I hope we can fix it. But what we really need to do is to fix it permanently and ensure that the loudest voice in this House is that of the average working man and woman. That is why we need to get rid of this amendment and support the Shays-Meehan legislation.

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

Mr. Chairman, there is a movie that I enjoyed, it was called Groundhog Day. Some of my colleagues may have seen Groundhog Day. Maybe the Chairman saw it. I know they have theaters in Arkansas, Mr. Chairman.

I am a member of the Committee on House Oversight. We have heard all of these arguments. The House of Representatives was set up, and fortunately we have the Committee of the Whole and here we are tonight as the Committee of the Whole and we are repeating all of those arguments. We had 40 Members and these Members are very well intended. I heard the gentleman from California (Mr. DOOLITTLE), I heard the gentleman from Connecticut (Mr. SHAYS), I heard the gentleman from Massachusetts (Mr. MEEHAN), I heard every one of the sponsors almost, or I read their testimony for their proposals. The problem is we have 435 experts. The gentleman from Georgia (Mr. COLLINS) was just here and showed his brochure of how he was offended and beaten up by soft money or union money.

The problem we have here is this soft money, and we would love to ban it, I would love to ban it, we looked at this, the problem we have is we have $263 million here, but we heard the gentleman from Arizona who said that there was a half a billion dollars of union money that you could not even put on this chart in addition to that. And, Mr. Chairman, we are all going to be here again because we are not going to be able to solve this unless we can solve all of these problems. We do have an impediment. The impediment to soft money, and we have heard it, is the Constitution and the Bill of Rights, the first amendment, the free speech clause.

We have been through this debate in committee, we are going to be through this debate again. Our committee tried and we did our best. We brought out four bills, one on disclosure, one banning soft money, one banning union money, and one banning very clearly foreign contributions. And unfortunately we are here again.

So we will repeat on campaign finance reform Groundhog Day. We are going to hear all the arguments again. We are going to have the same votes again. It is just a prediction. It is going to be another Groundhog Day.

Mr. Chairman, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding. I think this has been a pretty good debate, although Members do not want to seem to yield to questions. I think that is unfortunate, so I am going to try to put this in perspective and bring us back to Earth.

There are two different kinds of campaign money. One is hard money, one is soft money. The hard money that we are talking about is money that goes directly to candidates to elect or defeat candidates. That is heavily regulated and supported by the Supreme Court to do so. What the Shays-Meehan bill wants to do is stop the soft money.

Now, the gentlewoman from Texas talks about the Lawyers for Civil Liberty.

Ms. JACKSON-LEE of Texas. The Lawyers Committee for Civil Rights.

Mr. DELAY. The Lawyers for Civil Rights under Shays-Meehan could not raise the money to advocate the kinds of issues the gentlewoman advocates under Shays-Meehan. They would be regulated. I do not understand why she would support Shays-Meehan.

She talks about leveling the playing field. The Supreme Court said that the concept that government may restrict speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the first amendment. We are not trying to level the playing field here. What they want to do in the Shays-Meehan bill, they want to ban soft money. Ban it altogether. And, therefore, bring moneys under the hard money type of regulations. They want to recognize people like Lawyers for Civil Liberty; if they want to run ads against TOM DELAY because he does not support their advocacy, they want to call those sham type ads and they want to regulate those, too. I do not want to regulate your group. I want them to be able to come at TOM DELAY and let us have a discussion of the issues. They want to codify Beck. But the problem is that you have to remove yourself from the union in order to take advantage, you have to resign from the union to take advantage of their Beck codification. This is all tied together. This is all part of what we are talking about here.

The gentleman from Georgia is absolutely right. Honesty does not come from a bureaucrat. Honesty does not come from the Shays-Meehan bill. You cannot bring honesty to this Chamber, and I might say, this Chamber is not corrupt. This Chamber is not corrupt.

The CHAIRMAN pro tempore (Mr. DICKEY). The time of the gentleman from Florida (Mr. MICA) has expired.

(By unanimous consent, Mr. MICA was allowed to proceed for 3 additional minutes.)

Mr. MICA. Mr. Chairman, I continue to yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the point here is that honesty does not come from a bureaucrat or from a law. I have said it before and I will say it again, I do not know one Member of this body that is corrupted by money. As the gentlewoman said, we ought to lift all boats. Under Shays-Meehan and other kinds of restrictions, she would not be elected. She would not be able to get 58 percent of her money from PACs, because they would eliminate PACs. They would eliminate soft money. They would not be able to elect a woman and let her get in a boat and be lifted. That is what we are trying to say here.

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

Mr. DELAY. I cannot yield. I do not have the time, and I am trying to finish so the other gentlemen can use the time. You would not yield to me, so I just have to keep moving.

Mr. Chairman, the point I am trying to make here is, real reform is opening up the process, not shutting it down in favor of incumbents. That is what they are trying to do. This is all interconnected. The Thomas amendment is saying that if one part of this is struck down, then it all should be struck down, because the Shays-Meehan bill is connected and interconnected.

Therefore, I beg Members to vote for Thomas. Because if you are for real reform and not shutting down the process, if you are for real reform and opening up the process and inviting more people in, then you would not only pass the Thomas amendment but defeat the Shays-Meehan bill.

Mr. MICA. Mr. Chairman, reclaiming my time, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, the cosponsor of the bill from Massachusetts mentioned that they had 127 legal scholars working on this project. They issued a report called Buckley Stops Here, the 20th Century Fund, not-for-profit group.

This is paid for by what we would call soft money, contributions. And we want them to use soft money to speak about an issue and try to overturn the Buckley case if they want to do that. But if Shays-Meehan is adopted, they are going to curtail the speech of not-for-profit groups because in essence they do not like what these groups are saying.

You are curtailing the amount of money that can be given to 501(c)(3) organizations and you are expanding the definition of express advocacy.

Mr. SHAYS. Express advocacy involves——

Mr. MICA. Regular order, Mr. Chairman.

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman will suspend.

The Chair would like for each Member to yield and to reclaim his or her time so that one person will speak at a time.

Mr. MICA. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman has 30 seconds.

Mr. MICA. Mr. Chairman, in conclusion, and I am sorry I do not have too much time, but I tried to point out and I serve on the committee, we looked at this, we have been there, we have done it. We see $263 million in soft money, another half a billion not even on that chart. We are not going to resolve this because you do not have the votes on either side, and 218 votes in this House beats the best argument.

□ 2230

So people want the laws enforced, people want disclosure, and people want a ban on foreign money. Those are the things we can agree on. Those are the things that we brought out as a committee.

The gentleman from California (Mr. THOMAS) has done his best. I urge his amendment.

Ms. DELAURO. Mr. Chairman, I rise in support of Meehan-Shays.

Americans want fundamental change, a complete overhaul of the campaign finance system. They want meaningful limits on frenzied political spending, and they want them now.

Finally, today, we have an opportunity to give the Americans what they want. We have an opportunity to end the abuses of the electoral process.

We must ban soft money, rein in the exploitation of issue ads, limit individual contributions, and restore the faith of the American people in our political process. We must pass Meehan-Shays.

The Republicans have tried to kill reform time and time again by breaking promises, strong-arming reformers off of the discharge petition, and by introducing a hodgepodge of bills that the House already rejected and a constitutional amendment that they didn't even believe in. Now, they are attaching hundreds of poisonous amendments to a bill that would genuinely reform this system.

Why? Because the Republican leadership is trying to protect a broken system that works for them. The Republican leadership wants to keep the flow of big money coming from special interests and silence the voices of working men and women and their families. The Republican leadership wants to kill reform.

Representative RAY LAHOOD even admitted last week that the Republicans were "trying to talk it to death."

But talk is cheap. Today, I challenge my Republican colleagues to act. Prove that you are not in the pockets of the special interests. Restore America's faith in its elections. Support genuine campaign finance reform and bring a true victory home to the American people. Vote for Meehan-Shays.

The CHAIRMAN pro tempore (Mr. DICKEY). Does any other Member seek recognition?

Mr. SHAYS. Mr. Chairman, I wonder what the process is to encourage the Chair to ask for a vote on this issue, and then I think we will have a rollcall vote tomorrow.

What is that process?

The CHAIRMAN pro tempore. Are there any other Members who would like to speak on the amendment?

If not, the question is on the amendment offered by the gentleman from California (Mr. THOMAS) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. SHAYS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from California (Mr. THOMAS) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS) will be postponed.

PARLIAMENTARY INQUIRY

Mr. HUTCHINSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HUTCHINSON. Am I correct to understand that once the Thomas amendment has been considered and now that we have to roll that vote that we could not consider another amendment tonight?

The CHAIRMAN pro tempore. It is the Chair's understanding that there will be a motion to rise.

Mr. HUTCHINSON. Am I correct that there was an understanding that we would cease debate at 10 o'clock tonight or when we completed debate on the Thomas amendment? If that is correct, it would appear to me that we are slowing down the process of amendments that need to be considered. I think we could do another amendment tonight within 30 minutes, as tired as everybody is.

The CHAIRMAN pro tempore. A motion to rise, if made, is preferential.

Mr. MICA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HAYWORTH) having assumed the chair, Mr. DICKEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

APPOINTMENT AS MEMBERS OF THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276h, the Chair announces the Speaker's appointment of the following Members of the House to the Mexico-United States interparliamentary group, in addition to Mr. KOLBE of Arizona, chairman, and Mr. GILMAN of New York, vice chairman, appointed on April 27, 1998:

Messrs. DREIER of California,
BARTON of Texas,
BALLENGER of North Carolina,
MANZULLO of Illinois,
BILBRAY of California,
SANFORD of South Carolina,
HAMILTON of Indiana,
FILNER of California,
DELAHUNT of Massachusetts; and
REYES of Texas.

There was no objection.

NASHVILLE'S HOUSE THAT CONGRESS BUILT

(Mr. CLEMENT asked and was given permission to address the House for 1 minute, revise and extend his remarks and include extraneous material.)

Mr. CLEMENT. Mr. Speaker, I rise today to report on my experience with the House that Congress Built and to urge all my colleagues to participate in this project.

Last year Congress passed House Resolution 147, which encourages all Members to participate in and to support activities to provide homes for low income families. So far 361 Members of Congress have agreed to participate in the House that Congress Built to make the American dream of home ownership a reality for low income families.

On Friday, June 12, I teamed up with the Nashville Area Habitat for Humanity and the Homebuilders Association of Middle Tennessee to break the world's record for building a habitat home. We not only broke the record, we shattered it. With 250 builders and 50 supervisors. Working tirelessly, the 3 bedroom 1,000 square foot home was built in an amazing 4 hours 39 minutes and 8 seconds. It was an unbelievable experience that I had the opportunity to participate in.

I also had opportunity to meet Millard Fuller, the founder of Habitat for Humanity International. It appears now we will be in the Guinness Book of World Records. I urge all my colleagues to join Habitat for Humanity in building homes in their districts. And let me mention it again—we built that home in an amazing 4 hours 39 minutes and 8 seconds.

Mr. Speaker, I rise today to report on my experience with "The House That Congress Built" and to urge ALL my colleagues to participate in this project.

On Friday, June 12, 1998, I teamed up with the Nashville Area Habitat for Humanity and the Homebuilders Association of Middle Tennessee to break the world record for building a Habitat home. We not only broke that record . . . we shattered it. The record had been 5 hours, 57 minutes and 13 seconds. With over 250 framers, builders, drywallers, electricians, plumbers and landscapers working tirelessly, the three bedroom, 1000-square-foot home was built in an amazing 4 hours, 39 minutes and 8 seconds.

I was very proud to be a part of this team. The hard work that Habitat for Humanity and the Homebuilders Association of Middle Tennessee devoted to this build is inspirational and heart warming. Witnessing the hard work of 250 builders and 50 supervisors who worked on the house was truly a sight to behold.

This project was a blessing to participate in because it gave me an opportunity to get to know the family who now owns the Habitat house. This personal contact is extremely important because it puts a face on poverty. When we give poverty a name and not merely a statistic, the problem reaches into our hearts and we feel compelled to do our part in helping to eliminate poverty housing in our country.

This home was built for Marilyn Winston and her 12-year-old son Ramonze. They had never owned a home and were living in a drug-infested and violence-filled neighborhood. Ramonze could not go outside to play. Marilyn, a registered medical assistant, is very devoted to the education and safety of her son and works very hard to provide for him. In their new home, Ramonze has his own room, a yard to play in and a safe neighborhood to live in.

At this building, I had the privilege to meet Millard Fuller, the founder and president of Habitat for Humanity International. Millard was a self-made millionaire at age 29, when he and his wife, Linda, sold all their possessions, gave their money to the poor and struck out on a search for a focus in their lives. Their experiences led Millard to create Habitat for Humanity International, dedicated to providing homes for low-income families.

Today, Habitat has over 1,400 affiliates in North America and partners in more than 50 nations. The 70,000th home will be built in September.

I think we can all agree with the principal benefits of home ownership. A home is not merely a shelter—it provides a family with an opportunity for growth, prosperity and security. Home ownership promotes economic independence for our citizens and provides stability for our neighborhoods.

The United States is the first country in the world to make owning a home a reality for a vast majority of its families; however, more than one-third of the families in this country are not homeowners. A disproportionate percentage of non-homeowning families are low-income families. Owning a home is like owning a piece of the rock. If we all join together, we can help ensure that this nation becomes a nation of homeowners.

Last year, Congress passed House Resolution 147, which encourages all members to participate in and support activities to provide homes for low-income families. So far, 361 members of Congress have agreed to participate in the House that Congress Built, to make the American dream of homeownership a reality for low-income families. When we voted on this resolution last year, I thought it was a good idea. After participating in the world-record breaking build on Friday, I'm convinced that this is one of the greatest events I've ever had the privilege to be part of since becoming a member of Congress. I urge all of you to join Habitat for Humanity in building homes in your districts. I promise you that if you participate in a habitat for Humanity build, it will be one of the most rewarding experiences of your life.

I also urge my colleagues to ensure that this effort does not end with one symbolic house in each congressional district. Our goal is to eliminate poverty housing across the United States. This has to be the beginning of the fulfillment of the American dream for each and every American.

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

SUPPORT THE CHILD CUSTODY PROTECTION ACT

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

Mr. SMITH of New Jersey. Mr. Speaker, I urge support for the legislation of the gentlewoman from Florida (Ms. ROS-LEHTINEN), the Child Custody Protection Act.

Mr. Speaker, my colleagues may recall that when the partial-birth abortion ban became an issue, many pro-abortion organizations, including Planned Parenthood Federation of America and their research arm, the Guttmacher Institute wrote a letter saying there are 500 partial-birth abortions every year in the entire country. That statement, just like other statements that they made, turned out to be bogus, turned out to be a lie.

It was a New Jersey newspaper that broke the story that just one clinic in my State, the Metropolitan Medical Associates in Englewood, did about 1,500 partial-birth abortions each and every year, many of them on teenagers.

Now we find that the Metropolitan Medical Associates and other abortion mills in the State of New Jersey advertise and market their business in Pennsylvania and elsewhere and use the fact that New Jersey does not have a parental consent or parental notice statute as a way of luring young girls to that clinic and to other clinics. If we look at this ad, it stresses that pregnancies are terminated up to 24 weeks without parental knowledge or consent.

These ads are telling teens "Hey, we can end your pregnancy and your baby's life and your parents don't have to know." But if a teenager's secret abortion leads to complications, what happens then? Where is it written that the person driving the frightened and vulnerable 13 or 14-year-old to an abortion mill is responsible? No, her parents will be responsible for and involved in her care after the abortion—when the disaster hit. They should have had the chance to be involved at the beginning—and they would have if the state law had not been evaded.

We need to say that the law does matter. We need to say that parents matter. And we need to help those vulnerable children who are being carried across state lines and pushed into abortion clinics by relative strangers who, in most cases, have their own reasons for making sure that these girls get abortions.

Support the Child Custody Protection Act.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CALLING FOR REAL REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE of Texas) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think, as we were engaged in this very important and maybe life-changing debate on the question of campaign finance reform, returning the government back to the people, it might have been some confusion on a group that I wish to pay tribute tonight and that is, of course, the lawyers' committee for civil rights under law. That is not a political advocacy group, nor is it a PAC that secures and solicits money to fund candidates for any kind of election. This is a 35th year, an anniversary of this great and historic body. Its theme is answering the call for equal justice.

On June 21, 1963, President John F. Kennedy summoned 250 of America's most prominent lawyers to the White House to enlist their leadership in helping to resolve the civil rights crisis which gripped the Nation. In the preceding weeks Americans had witnessed the bombing of black churches, the number of civil rights, the murder of civil rights activist Medgar Evers and the defiance of Alabama governor George Wallace who sought to block the admission of black students to the State university. Establishment of the lawyers' committee sought to fulfill the expectation of America's leaders that the private bar become an active force in the continuing struggle for equal opportunity and racial equality.

In saying that, Mr. Speaker, let me also acknowledge that we are not talking about taking the opportunities away from various advocacy groups to participate in the political process, and to raise money, and to speak and to

utilize the first amendment. My colleagues know on the other side of the aisle in debate of this issue that you can organize a PAC and be actively involved in both fund-raising and speaking your views. So I would not want the great work of the lawyers' committee on civil rights to be associated with a PAC or an advocacy group. They are a justice group.

In keeping that in mind, Mr. Speaker, let me also say that we can see in our campaign process the influence of big money. Just this week the other body, of course, has not spoken to the issue that the American people want them to speak to, and that is the issue of reforming and changing the laws as it relates to the sale of tobacco. Four thousand youngsters every day start smoking, and 1,000 of them will die. Now that is why the Congressional Children's Caucus on Wednesday, June 24 will convene a hearing so that the world can hear our children speak out against the violence of tobacco use, how they are besieged with advertisement and encouragement to use it. We will listen to their voices. We will listen to physicians tell us how cigarette smoke, secondhand smoke, impacts children every day.

It is important that we relieve ourselves of the whole influence of negative influences on this concept of government and democracy. I certainly think that actions this week speak of negative influences. For most of the American public, when told the truth, want a reform of the way tobacco is utilized in this country and how it is projected toward our youth.

We could have had a strong tobacco reform bill. We could have had a bill that provides for the health care of Americans at the same time that we are protecting our children against advertisement that would encourage them to smoke. But yet influence has brought that bill to a halt.

I am here to call on this House to move forward and to bring about real reform as it relates to tobacco. I am here to ask this House to listen to these children as they come to the United States capital to present their case. And lastly, Mr. Speaker, I am here to make sure that we give attention and respect to an organization that deserves such; that is, the lawyers' committee for civil rights under the law, and maybe in its 35th year, as it fought for civil rights and justice, maybe we will stand in this body and also answer the call for equal justice. We will pass real campaign finance reform, and we will have a tobacco bill that will protect our children. I hope that their call is not in vain and that it will not be silenced by the pondering of our voices and by the overwhelming special interests that try to strangle democracy in this House.

U.S. SUPPORT FOR PEACE AND STABILITY IN THE CAUCASUS

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, yesterday two of my colleagues, Mr. KENNEDY of Massachusetts and Mr. KENNEDY of Rhode Island and I met with Deputy Secretary of State Strobe Talbot and other top State Department officials to discuss the resolution of the conflict in Nagorno Karabagh, a state in the southern Caucasus region of the former Soviet Union. Our goal was to try to develop some new ideas on how we can work to promote greater cooperation and stability in this strategically-located region.

Although the State Department clearly considers Nagorno Karabagh to be of the utmost importance, my colleagues and I are concerned the U.S. diplomatic efforts have either stalled or are going in the wrong direction. We are concerned that our diplomatic priorities are being eclipsed by commercial interests in the region and that the traditional American mission of promoting democracy is being diverted by the desire to develop oil resources.

Secretary Talbot and his colleagues from the Department of State who met with us were most gracious, I should say, but there are differences between the State Department and those of us in this Congress who are staunch supporters of Armenia and Nagorno Karabagh.

And, Mr. Speaker, as I have mentioned in this House on several occasions, the people of Nagorno Karabagh fought and won a war of independence from Azerbaijan. A tenuous ceasefire has been in place since 1994, but a more lasting settlement has been elusive. The United States has been involved in a major way in the negotiations intended to produce a just and lasting peace. Our country is a co-chair along with France and Russia of the international negotiating group commonly known as the Minsk group formed to seek a solution to the Nagorno Karaagh conflict. Pro Armenian Members of this House welcome the high profile U.S. role in this process. As I have indicated, we have some substantive differences.

Unfortunately the State Department is most reluctant to drop its support for Azerbaijan's claim of so-called territorial integrity despite the fact that Nagorno Karabagh has been inhabited by Armenians for centuries.

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I would say, Mr. Speaker, it is time for the U.S. and our Minsk Group partners to forget about the idea of Azerbaijan's so-called "territorial integrity" as the foundation for peacefully resolving this conflict.

In the first place, given Nagorno Karabagh's autonomous status in the old Soviet system, there is no reason why they must be considered part of Azerbaijan. But more importantly, Mr. Speaker, the people of Nagorno Karabagh do not consider themselves to be a part of Azerbaijani society. And, considering the horrible treatment visited upon the people of Karabagh and the Armenian community in Azerbaijan proper, it is apparent to me that Azerbaijan really has no use for the people of Karabagh.

The State Department officials that we met with yesterday seemed to be open to new ideas coming from the parties to the conflict, and that created a certain amount of optimism. They stressed that if Armenia, Azerbaijan and Nagorno Karabagh all agreed on a status for Nagorno Karabagh that left it free of Azeri suzerainty, the United States would go along. There was a clear understanding on the part of the State Department that the earlier Minsk Group proposal that did not address the status issue was no longer acceptable to Armenia or Nagorno Karabagh.

Mr. Chairman, as we stressed at yesterday's meeting, our top priority should be to push for direct negotiations, involving Nagorno Karabagh and Azerbaijan, without preconditions. And I should add that any proposal that starts with the premise that the map of Azerbaijan must include Nagorno Karabagh is a big precondition.

As a first step, Mr. Speaker, I would stress the importance of strengthening the current, shaky cease-fire as a priority for the Minsk Group. Making a priority of securing the cease-fire would help end the violence, stop the continuing casualties, and help build confidence for further agreements between the parties.

I believe we should also consider the idea of "horizontal links," a federation between Azerbaijan and Nagorno Karabagh among equals. This model has been used in resolving the Bosnia war and in the current negotiations aimed at resolving the Cyprus conflict.

Another key is the need for security guarantees for Karabaugh. As I mentioned, Karabagh won the war and holds the strategic advantage. But it is unrealistic and unfair to except Karabagh to give up its gains on the battlefield for vague promises at the negotiating table by the United States or the other Minsk Group cochairs.

Finally, let me say, Mr. Speaker, that America's role should be that of a nonbiased mediator. It is a role that we have played honorably and with great success in conflicts raging from the Middle East to Bosnia and to Northern Ireland, and there should be no difference here in the case of Karabagh.

POSSIBLE CURES FOR ABUSES IN MANAGED CARE

The SPEAKER pro tempore (Mr. HAYWORTH). Under the Speaker's announced policy of January 7, 1997, the gentleman from Iowa (Mr. GANSKE) is recognized for 60 minutes as the designee of the majority leader.

Mr. GANSKE. Mr. Speaker, it has been a long day here in the House with a lot of debate about campaign finance reform, and as our colleagues on the other side of the Capitol have been debating for almost 4 weeks until it ended yesterday, a debate on tobacco legislation, which appears to be at least significantly set back. We have a debate going on on campaign finance reform which is much needed, and it appears as if we may have a 3 or 4 week debate on that as well. I hope that the outcome comes out better than that.

But I want to speak tonight about another issue that has been bottled up in Congress for a couple of years that has broad bipartisan support, something that is very important to our constituents back home and to every American, and that is the issue of abuses in managed care and whether we ought to have some minimum standards, Federal safety standards for managed care.

I frequently hear my colleagues who oppose this saying, well, let us not legislate by anecdote. I mean, heaven forbid that we should ever in this body legislate by anecdote. The problem is that these anecdotes are real people, and they are all over the country, and we can read about them in newspapers at home, and nearly everyone knows somebody or has a family member that has been affected by abuses in the managed care industry.

Here we have a headline from the New York Post: "HMO's Cruel Rules Leave Her Dying for the Doc She Needs." Does that seem harsh? Well, how about this case history of one of these "anecdotes." Although I really do not think we would want to call Barbara Garvey an anecdote to her family.

Barbara Garvey is a 54-year-old Chicago woman who fell seriously ill when she was vacationing in Hawaii. The doctors in Hawaii correctly diagnosed her condition and advised the Garveys that she needed a bone marrow transplant immediately. Then the physicians cautioned the couple that Barbara should not travel back to Chicago for this treatment since this could increase the risk of her suffering a cerebral hemorrhage, or infection during her air travel. So they phoned her doctor back in Chicago who agreed with the Hawaiian doctors; take care of her in Hawaii. Travel by an airplane in her condition is too dangerous. However, the HMO bureaucrats told Barbara's husband, David, that the HMO would not be responsible for her treatment if she remained in Hawaii, and that she should return to Chicago. In route to Chicago, Barbara suffered a stroke that left her right side paralyzed and she was unable to speak. When she arrived in Chicago, she was admitted to St. Luke's Medical Center where she died 9 days later of a stroke.

The HMO then attempted to use a legal loophole to avoid all responsibility. That loophole is contained in a law known as the Employee Retirement Insurance Security Act of 1974, ERISA, which was enacted well before the era of managed care and was intended to provide workers with benefit protections. The HMO claims that because Garvey received her health care through her employer, the Garveys cannot receive damages for Barbara's death.

HMOs have been using ERISA, in many cases successfully, to shield them from the accountability of their decisions, when they tie the doctor's hands and they direct a patient's care leading to injury, or even, in the case of Barbara Garvey, death.

Well, I guess the opponents to this legislation would just say, gee, we should not legislate by anecdote.

Well, how about the case of Betty Wolfson. This is told by her daughter. The dispute between my mother and her HMO arose when the HMO's doctors recommended a course of treatment that world-renowned neurosurgeons at UCLA medical centers believe will endanger her life. We wanted a second opinion because my mom has an artery in her brain the diameter of a golf ball that is full of blood clots. It has caused her to go blind in one eye. At any time she could completely lose her sight and suffer a massive stroke, or die.

Initially my mom's HMO stated there is no appeal process. Finally, someone explained there was no "complaint department," only a "customer satisfaction department." By the sheer fact that HMOs have endless financial resources, her daughter continues, this makes it a cinch for her HMO to prevail. When this process bankrupts my mother and forces my folks out of their HMO, it is often taxpayers that end up picking up the tab, saving the HMO from having to shell out for expensive medical treatments.

Her daughter continues, Sadly, our story is not unique. ERISA, the Employment Retirement Income Security Act, contains a loophole that allows HMOs to sidestep accountability for denying or delaying medical care. If this loophole were closed now, families like ours would not have to suffer financial and emotional ruin to get adequate help for our loved ones.

Mr. PALLONE. Mr. Speaker, will the gentleman yield?

Mr. GANSKE. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Speaker, first of all, let me say that I am very pleased to see the gentleman here again tonight talking about the need for managed care reform or patient protections, because I believe, as I have said before, that this is the number one issue facing this Congress. It is the issue that I hear most often when I talk to my constituents and our constituents throughout this country, be they Democrat, Republican, Independent; regardless of party affiliation, regardless of State, are demanding action on these patient protections.

I just wanted to make a brief comment which is that the gentleman really points out how this is nothing more than a very common sense approach to quality health care. The gentleman mentioned anecdotes, and of course they are not, they are real people and we know that they are real people, but beyond that is the notion that, and I have said this before, in my constituents' minds and I think most Americans' minds, when they hear the types of things that the gentleman is relating, they cannot believe it because they assume that their insurance company, whether it is an HMO or whatever kind of managed organization, would follow common sense precepts. In other words, they would not assume that because one is in Hawaii that one has to take a plane contrary to one's health and come back to Chicago.

They would not assume, for example, that if one needs to go to an emergency room, that one would have to go to one 40 miles away rather than the one that is around the corner, because that particular hospital is not part of the network. They assume that if someone has to have access to a particular type of care, specialty care, for example, that the specialist is going to be available and that the HMO will not deny them.

I think even more so, as the gentleman pointed out, is that when I talk to some of my constituents that have had problems with HMOs, they talk about the lack of an appeals process that they can really utilize, because again, if a mother has to take care of a sick child or a father has to take care of a sick child and they are working, they do not have the time to spend 9 hours a day going through some obscure way of appealing a decision. They have to have a very easy way to take an appeal to someone who is actually going to hear it in an expedited way.

I have found, as the gentleman said, that a lot of these problems with HMOs, essentially what happens is that if someone does not want to accept a decision that has been made with regard to a particular type of care or access to a specialist or use of particular equipment, that people essentially give up because they do not have the time or the wherewithal to go through the appeals process, and that should not be. That is what is so egregious I think about the system that is set up.

Of course, the other aspect that the gentleman points out is the inability

to sue the HMO when they make a mistake or they make a decision that actually damages someone or kills someone. Again, I do not think most people would think that they have lost the right to sue because of the Federal law that is out there.

So all we are really saying, all the gentleman is really saying is that we need some common sense patient protections that apply to all HMOs, to all managed care organizations, to all insurance companies, and that those basic patient protections, that "floor," if you will, needs to be put in place. Otherwise, we have people dying and people getting seriously ill, and the long-term consequences of that not only are bad for the individuals, but in many cases cost the taxpayers even more money because they end up footing the bill.

So I just want to thank the gentleman again for these examples, because I think that when we use examples, that is the way people will understand it. But unfortunately, we are going to have to somehow get this into the heads of some of our colleagues, because although there are a lot of people that support this, there are a lot unfortunately that make it difficult to bring up the legislation.

Mr. GANSKE. Mr. Speaker, reclaiming my time, I appreciate the gentleman's comments, because he is getting to a point that I will get to a little bit later, but we might as well get to now. I am going to talk about some more examples tonight, but it is not as if we have not had several bipartisan bills sitting here in Congress this year, last year, bipartisan bills in 1996 with over 300 cosponsors dealing with this problem with no standards for people who are in HMOs and are receiving their insurance through their employer in a self-insured plan because of Federal law.

□ 2245

We have two bipartisan bills now, right here sitting here in Congress waiting to be acted on. One is the Patient Bill of Rights. The other is the Patient Access to Responsible Care Act.

The second one has about 230 cosponsors. Just by the number of cosponsors alone, if it were on the floor today it would pass. I happen to think that when and if we can get one of these bills to the floor, and overcome the leadership's objections to this legislation, that legislation will pass overwhelmingly in a bipartisan fashion.

But why is it being held up? What is the problem? I mean, it is not as if the American public is not calling for this. It is not as if the American public is not well aware of these problems, which I will going to go into in more detail. Nine out of ten Americans by survey today say: Please, give us some Federal legislation for some minimum quality standards so that when we get sick, our HMO will give us the care that we need.

Mr. PALLONE. Mr. Speaker, if the gentleman would yield, I think it is pretty obvious. And I do not think we need to do any more than ask the average American. I am sure they would articulate and be right in saying that it is the insurance industry, of course, that is continuing to lobby in Congress to prevent this legislation from coming forward.

The fact of the matter is they spend a lot of money on advertisements and other ways of trying to influence what goes on here. So I have no doubt that the reason why the leadership has been unwilling to bring this to the floor is because of the opposition from the insurance industry.

We have had this so often with health care reform in general. But this, of course, hits at the very heart of the HMO and the managed care industry, because they fear that somehow by us putting these patient protections in effect, that they are going to be told what to do or that somehow their costs may be impacted.

I really do not see it as a cost issue. I do not think it is going to cost anything more, or certainly a very insignificant amount extra money if anything, to implement these basic patient protections and we have to keep making that point.

Mr. GANSKE. Mr. Speaker, reclaiming my time for a moment, I think we should make a distinction between the insurance industry and HMOs and the managed care industry.

There are a lot of health insurance companies that provide health insurance policies to individuals. They do not have the liability exemption that a managed care plan, an HMO, has when it is offered through an employer. Consequently, we see significantly fewer of these horror stories from that portion of the insurance industry.

We see fewer reports of problems in the nonprofit managed care industry because they are ethically trying to do their job. When they look at a Patient Bill of Rights, as has been proposed by our legislation, they are already doing most of the things that we are proposing.

What we are really talking about is a subset of the managed care industry that adamantly opposes quality standards. Why? Because they are cutting corners. That way they can increase their profit margin. Their stock will go up. Their CEOs will make millions more. They can capture more of the market share, because they are keeping their premiums lower than those plans that are actually trying to do a legitimate job.

Mr. PALLONE. Mr. Speaker, if the gentleman will yield, we had a report that the gentleman mentioned the other night on the floor about the CEOs of some of these for-profit HMOs or managed care organizations, their salaries are many millions of dollars per year with all kinds of stock options that add up to additional millions of dollars.

I am glad the gentleman brought out the distinction between the different types of HMOs and managed care, because in fact many of the not-for-profit HMOs or managed care organizations in the beginning, when the President first proposed patient protections, were actually supportive of the patient protections, most of which are incorporated in the two bipartisan bills that the gentleman mentioned.

It is true that there are good and bad insurance companies and generally the not-for-profit HMOs and managed care organizations have not really had a problem with the kind of patient protections that we are talking about.

Mr. GANSKE. We are actually seeing some of the nonprofit HMOs such as Kaiser, HIP, calling for Federal legislation for patient protections. They would like to see a national uniform standard so that their competitors who cut corners and needlessly put at risk people's life and limbs are not able to unfairly compete against them when they are trying to do a legitimate job.

Let me give another example. I am not calling some of these cases anecdotes, because some of the opponents to these two bills say, well, we should not legislate by anecdote. I am a physician. I continue to be a physician. I continue to do charity care while I am in Congress. So I am going to refer henceforth in this talk tonight to "patients," because that is what I think they are.

Let us talk about Francesca Tenconi, an 11-year-old girl. She suffers from a disease called Pemphigus Foliaceous. This is an autoimmune disease in which her body's immune system becomes overactive and attacks the protein in her skin.

Her parents have had to battle with their HMO to insist upon appropriate diagnosis and medical care. According to her father, Francesca's medical and insurance ordeal began in December 1995 when at the age of 11 she was diagnosed with a skin rash. By March, that condition had spread and become worse, and by April it was so bad she could not attend school. During this period, her parents made several requests to get a referral to a specialist to find out what was going on and her HMO refused.

Finally, in May, almost 6 months after the first appearance of her skin problems, the HMO finally did some biopsies and sent them to out-of-network doctors and they finally got an accurate diagnosis. But even after receiving the diagnosis, her HMO still insisted on treating the disease with its own doctors, even though this is a very complicated, difficult disease.

It was not until February of 1997, over 1 year after her symptoms appeared, that they finally allowed her to receive care at Stanford Medical Center, which possessed the doctors capable of treating this illness.

Explaining the prolonged and unnecessary pain of lying down without skin on his daughter's back for over a year, Don Tenconi said, "If you feel this pain, you will shed tears of pain. The same pain that Francesca shed night after night, week after week for months."

And because Francesca received her health care through Donald's employer, the HMO claims that ERISA shields it from damages resulting from delaying and denying medically appropriate care and referrals. And that is wrong.

That is a real live little girl who for a year had basically no skin on her back. Think of how painful that condition would be. Think about being that little girl's mother and father. Think about their continued appeals to try to get appropriate care from their managed care company.

Today in our committee, the Committee on Commerce, we had a long hearing on liver transplants. Let me give another example of an HMO abuse. A woman suffering, her name is Judith Packevicz, suffering from a rare form of cancer of the liver, is today being denied life-saving treatment by her HMO. The HMO will not pay for a liver transplant recommended by her oncologist, with the support of all of her treating physicians.

This is causing this woman to live out a death sentence. The HMO denied the recommended transplant on the grounds that it allegedly "does not meet the medical standard of care for this diagnosis."

No explanation of why the recommended transplant allegedly fails to meet community standards, when all of her doctors have recommended this treatment, has been provided in correspondence from the HMO.

Well, under ERISA, should Mrs. Packevicz die before she receives a transplant, her HMO will have no costs at all. Is that what we want to see continue in this country?

Mr. PALLONE. Mr. Speaker, that is horrible. Can I ask the gentleman if he knows, what would be the cost of a liver transplant, approximately? What is the cost? Do you have any idea?

Mr. GANSKE. The cost of a liver transplant, in total, would probably be in the range of several hundred thousand dollars. This is not something that the Packevicz can afford.

Mr. PALLONE. But this is obviously the reason why they are excluding it, because they do not want to incur that cost. There is no question, I would say.

Mr. GANSKE. Mr. Speaker, what we have with the managed care industry is we have a situation where they make more profit by giving less service, less treatment. By my mind, this is the only industry in this United States or anywhere where they get paid more for doing less. It is a perverse incentive system and one that needs guidelines so that it is not abused.

Another example, how about Carol Anderson, a hospital worker who has had to change insurance providers in the middle of her breast cancer treatment. When she called an HMO to ask if her doctors were on his network of physicians, she was told they were not but because her breast reconstruction was already underway, she could stay with them.

However, the next month, that HMO refused to cover her surgery claiming she had been misinformed by somebody and so after months of fighting, they finally agreed to pay, but only if she switched physicians. That is tough in the middle of treatment, especially reconstructive treatment. I am a reconstructive surgeon. I know how difficult some of those operations can be.

The bills that are sitting here waiting to be acted upon by Congress address that. They say that if a patient is in the middle of treatment and the employer switches the insurance coverage to a different HMO, the patient does not have to switch doctors until that treatment is finished.

Same thing goes with pregnancy. A woman is 7-months pregnant, her employer switches plans, her current doctor is not in the treatment plan. Well, too bad. She has to go to a new physician, a new doctor. Our bills address that and say, huh-uh, if employees are offered an employer plan in that situation with a pregnant woman nearly ready to give birth, they cannot force her to go to another physician. And why? Because there is a certain benefit to continuity of care.

Mr. PALLONE. Mr. Speaker, if the gentleman would again yield, just common sense. We are not really asking for anything more. And obviously it makes sense to not switch physicians in the middle of a pregnancy or in the middle of some kind of disorder.

If I could just mention too, I think that many constituents that I talk to, not only in my district but in other parts of the country, really would like to see some kind of option where patients can go outside the network for a doctor or hospital or other provider, even if it means that the patient has to pay more.

I know that the Patient Bill of Rights, which is one of the bills that the gentleman mentioned, specifically says that when consumers sign up for health insurance with the employer, that the employer has to offer the option of going outside the network for a doctor, even if it means that the patient has to pay a little more. Not everybody wants to do that, but for those people who are willing to pay a little more it certainly makes sense.

I find that a lot of people do not realize when they sign up for a particular HMO that they are limited by the number of doctors, or realize what doctors are in the plan or not. That is why disclosure, which is another one of the issues that is addressed in these two bills, is so important.

We need to have disclosed what the patient is getting into when they sign up. Too many people now just do not know what the HMO covers and what it does not, and what doctors are in it and what hospitals are in it and what not.

□ 2300

That is another basic right and another basic protection that those bills address which I think needs to be addressed.

Mr. GANSKE. Mr. Chairman, in light of all of these cases, and I can come to the floor every single night and talk about patients like these, and the gentleman could, too. In light of that, what does the American public think about all of this? Let me give a few of the findings from a nationwide health care poll done by a Republican pollster, the Republican pollster, by the way, who did most of the polling for the Contract With America.

Let us just look at what some of the findings were in this recently conducted poll of over 1,000 adults nationwide. This was done May 1, 1998.

Question: Would you say the overall quality of health care over the last 10 years has improved, stayed the same, or deteriorated? Improved, 34 percent; stayed the same, 15 percent; deteriorated, 46 percent.

Fifty-five percent of Americans living in the West think the overall quality of care has deteriorated in the last 10 years.

Question: Health care providers should be required to give their patients full information about their treatment, their condition, and treatment options. Do you support? Support, 7 percent; opposed, 1.6 percent.

There is a provision in one of these bills, allow free communications, allow unrestricted communications between doctors and their patients. We would think that would be a given right.

Mr. PALLONE. Mr. Chairman, I think the gentleman should elaborate on that a little bit more. Most people are shocked by this gag rule. Just explain that a little more. People are shocked when they hear what kinds of restrictions are in place.

Mr. GANSKE. Mr. Chairman, as the gentleman from New Jersey knows, I have had a bill before Congress with over 300 bipartisan cosponsors that my Republican leadership will not allow to the floor. It would ban gag clauses which prevent doctors from being able to tell their patients all of their treatment options. We are not saying the HMO has to cover all of those treatment options; we are simply saying

that the HMO cannot restrict a physician from telling a patient all of their treatment options. That is what those gag clauses are. I cannot even get that to the floor.

Mr. PALLONE. I would wonder whether or not that is even constitutional if someone ever wanted to take it up to the Supreme Court. It seems to violate the First Amendment not to be able to speak out in your profession.

Mr. GANSKE. Mr. Chairman, let us go on with some of these survey findings.

Proposal: Any basic managed care plan would be required to allow patients to see plan specialists when necessary. Do you support? 94 percent. Opposed, 2.1 percent.

We are talking about the ability when you have a complicated medical decision to get a referral to a specialist. That is one of the provisions in these two bills: the Patient Bill of Rights and the Patient Access to Responsible Care Act. Ninety-five percent of the American public agrees with that.

Proposal: Patient should have the right to a speedy appeal when a plan denies coverage for a benefit or service. Do you support? 94.7 percent. Opposed, 3.3 percent.

Proposal: A complete list of benefits and costs offered by the health plan before he or she signs up for the plan. Do you support? 91.3 percent. Opposed, 4.6 percent.

This is another one of the provisions that is in both of these bills, full disclosure. For heaven's sake, we are talking about an organization that makes life and death decisions.

Proposal: All health plans must allow their patient the option of seeking treatment outside of their HMO with the HMO covering at least a portion of the cost. Do you support? 87 percent. Opposed, 8.8 percent.

It goes across all groups. Here is another one. Insurance companies would be prohibited from paying doctors more money for offering less treatment or refusing referrals. Do you support? By a margin of two to one across all age groups, Republicans, Democrats, rich, poor.

Question: Let us say the proposals I just read were packaged in a single piece of legislation. Would you be more likely or less likely to vote for your Member of Congress if he or she voted for this legislation? More likely, 86 percent; less likely, 4 percent.

Here is a very interesting question from this Republican pollster. This, I think, gets to what we want to talk about next, and that is cost. If you knew that enacting all six proposals as a single piece of legislation would cost about $17 more per month, would you support this legislation? Support, 67 percent; oppose, 23 percent.

Do you know what? That is way higher than most of the estimates done by reputable accounting firms would say would be the cost. A survey by Coopers & Lybrand done by the Kaiser Family asked the question or looked at it actuarially. What would be the cost of a Patient Bill of Rights?

Mr. PALLONE. Most of what I have seen are within $5 and $10. That is most of what I have seen.

Mr. GANSKE. Coopers & Lybrand said that a cost of the legislation, Patient Bill of Rights, exclusive of the liability provision, and we will get to that in a minute, would cost a family of four for a year $31.

Mr. PALLONE. Which is a lot less.

Mr. GANSKE. Significantly less than the question, which had a two-thirds majority positive answer.

We often hear from the opponents to this, well, small business is really against this. All of those small businesses would stop covering their employees. It would mean that more and more people would not have insurance.

Okay. This is very interesting, because today, actually yesterday, Kaiser Family, Kaiser-Harvard Program at the Public and Health Social Policy Institute, the Kaiser Family Foundation released a survey done of 800 small business people across the country. So these are the employers, these are the small business employers.

What did they find? They found that small business executives are pretty much just like everyone else in the public. They think that there is a need for Federal legislation on this.

Let me provide some specifics. Questions to the small business executives, the ones who are providing the insurance to the majority of people in this country: Would you favor a law requiring health plans to provide more information about how they operate? 89 percent favored; 5 percent opposed.

Would you favor a law requiring health plans to require ability to appeal health plans decisions? 88 percent favored; 8 percent opposed.

They continue to ask these small business executives: Would you favor a law requiring plans to allow direct access to gynecologists? 84 percent favored.

Would you favor a law requiring health plans to allow direct access to specialists? 75 percent favored.

Would you favor a law requiring health plans to remove limits on coverage for emergency room visits, so that if you have a case of crushing chest pain, you can go to the emergency room and not be worried that if the EKG is normal, you are going to be stuck with a big bill? 77 percent favored.

Mr. PALLONE. But, again, if the gentleman will yield, it makes sense that we get these kinds of responses because it is just common sense. Why would people think anything different? That is, I think, what we have been saying from the beginning, that these are just common-sense principles, and people are going to overwhelmingly support them.

But I just wanted to mention two other things that the gentleman brought up, and I would like to stress again; and those are, the reason why people are demanding these changes and want these bills to come to the floor is because the quality of health care is suffering.

We have prided ourselves in this country for so many years on having the best quality health care in the world, and I would venture to say that we still do, but that will not be the case for very long unless we start to put these kinds of common-sense protections in place, because quality is really suffering, and people realize that more and more. I think that people are used to having quality health care in this country, and they are not going to be satisfied with something less than that.

The other thing that the gentleman mentioned is that the opponents not only talk about cost, but suggest that because of the exorbitant costs that they bring up falsely, that the consequence of our legislation would be that fewer people would have health insurance. In fact, there is no truth to that whatsoever.

In fact, the reality is that fewer and fewer Americans have health insurance every day even with the HMOs in place. The phenomenon of more and more Americans not having health insurance is not a consequence of HMOs or any particular type of health insurance. It has to do with the fact that more and more employers simply do not provide health insurance. That is the biggest factor. So, really that is a ruse, talking about the costs. Talking about the fact that fewer Americans have health care has nothing to do with this debate, nothing to do with it whatsoever.

Mr. GANSKE. Mr. Chairman, reclaiming my time, this Kaiser Family Foundation survey gets right to that point. They asked these employers: How many of you will drop your coverage for your employee? The answer was between 1 and 3 percent; 1 and 3 percent, significantly different from the inflated claims that you will hear from the business groups.

But I want to point out a couple of additional things in this survey, and this is very interesting. Small business executives were asked this: Would you be in favor of requiring health plans by law to allow patients to sue health plans? This is going to surprise some of my colleagues on the Republican side. Favor, 61 percent; oppose, 30 percent.

If you then ask the question: Would you still be in favor of it if it resulted in higher premiums? More than half still favor it. Why? It is just like this talk I gave to this group of businesswomen, small businesswomen back in my district about a month ago.

We were talking about this issue. Do you know why? Because they are also consumers. They know that if their son or daughter has a skin problem like we have talked about with this poor little girl who is 11, and they have problems, they need to have recourse and remedy for it.

Then they went back, and they asked all those other questions that I have talked about by saying: Would you still favor that law if it might result in higher premiums? And 60 percent or more still favored every one of those.

Then they found this: 57 percent of small business executives think that managed care has made it harder for people who are sick to see medical specialists; 58 percent say it has decreased the quality of care people receive when they are sick; 65 percent of these small business executives say it has reduced the amount of time doctors spend with our patients; and interestingly, 43 percent say it really has not made much of a difference of what my health care costs have been to have all of my employees in an HMO.

I think that when we look at really some of our grass-roots, small business people, the people who are purchasing that insurance for their 10, 15, 20 employees, they are just like everyone else in the public. They know that there are abuses in those health plans, and they want to make sure, darn sure that their employees are not harmed, and also that they and their families who are covered by their plans are not harmed.

Mr. PALLONE. The employers are usually covered by the same plan.

Mr. GANSKE. Exactly.

Mr. PALLONE. It only makes sense.

Mr. GANSKE. Let us talk for a minute about the cost of liability. We have heard a lot of inflated estimates of this. Texas, as you know, passed a liability provision taking away the exemption for HMOs in Texas.

□ 2315

So one of the HMOs asked its actuarial firm how much extra should they raise the cost of a premium, and they asked the actuarial firm that is in the pockets of the HMOs, the one that does all the HMOs' bidding, Milliman & Robertson, well outlined by an expose, I would say, in the Wall Street Journal just recently. Even so, when Milliman & Robertson had to put the number on the line for the company that was actually going to do this, the liability provision would have raised the cost of the premium, I think, 0.3 percent. No, I am sorry, 34 cents per month, 34 cents per month.

Mr. PALLONE. Could I ask the gentleman this? The bottom line is that if we have this liability provision, and the HMOs know that they could be liable, I would think the consequence would be that they would be a lot more careful about what they deny and what they do. And so, therefore, the situations where they would be liable for malpractice or making the wrong decisions would decrease and their costs probably would not be that great.

So a lot of this is just preventive. A lot of the things that we are suggesting here just make for a better system in general and create prevention on the part of the HMO. And so I think that that is the reason why ultimately the cost is not really going to go up.

Mr. GANSKE. Well, let us look at a little more detail at this. This is going to be a matter of contentious debate, if and when we can ever get the Republican leadership to allow this to come to the floor, and that is, what will be the cost of the liability on this?

Well, here is what we have. We have a study that was done by Multinational Business Services, MBS. They estimated the liability cost impact of insurance premiums would be 0.75 percent. Less than 1 percent. What did Muse & Associates find would be the cost of liability for HMOs? 0.14 percent to 0.2 percent, two-tenths of a percent. How about the Barents Group? What did they estimate? 0.9 percent, less than 1 percent, up to about 1.5 percent.

But, really, as was pointed out, the insurance premium increases are most likely to occur for the HMOs that are most likely to be denying the care that is medically necessary, not the HMOs that are trying to do the ethical job that they should be and providing the care when it is medically appropriate. So there would be a range.

For many plans that are trying to do the ethical thing, the costs would be minimal.

Mr. PALLONE. And we would be bringing the unethical ones up to the same standards as the ethical ones in the long run. That is what the effect would be.

Mr. GANSKE. I remember in our Committee on Commerce we had testimony by a medical reviewer. Her name was Linda Peno. She testified before our committee, and she admitted that she killed a man. She was not in prison, she was not on parole, she had never been even investigated by the police. In fact, for causing the death of a man, she received congratulations from her colleagues and moved up the corporate ladder.

She was working as a medical reviewer at an HMO. She confessed how HMOs can use the term "medically necessary" as the "smart, smart bomb" of denials. There is a lot we need to do in terms of due process and making sure that HMOs do not abuse some of the terms that they use all the time to deny care; that is, in both of these bills, Patient Access Responsible Care Act and Patient Bill of Rights.

And there are standard due process provisions in those bills so that if care is denied, a patient can get a timely appeal process. Gee, that does not sound so outlandish. That is something that every other insurance company that is not shielded by ERISA has found it has had to do for 40 or 50 years, or else they would suffer the consequences.

□ 2320

When we talk about this legislation, I liken this to the automobile industry. When my colleagues or I buy a car, we are assured that we are going to have a car with headlights that work, turn signals, brakes, safety seat belt, some minimum federal safety standards. And yet, I do not see that we have any nationalized auto industry. And judging from the ads that I see in magazines or on TV, there sure is an awful lot of competition out there in the auto industry.

But we have some Federal standards, do we not?

Mr. PALLONE. Absolutely.

Mr. GANSKE. What is wrong with having some minimum safety standards for plans that Congress 25 years ago give a total exemption to?

Mr. PALLONE. There is no question that this is nothing more than common sense. We have said it over and over again and we are simply asking for a floor for patient protections.

I think, as the gentleman has well pointed out this evening, that basically it just brings the standards, if you will, of some of the worse for-profit HMOs up to the level of some of the better not-for-profit HMOs.

I just want to say once again that, really, the key here is not to persuade I think the average congressman or congresswoman. Because, as my colleague has said, we have a majority of the Members of this House on one or both of these bills. What we have to do is persuade the leadership that this is something that needs to be brought up.

I think tonight, with the polling that you brought out, makes a very convincing case and, hopefully, will also convince the leadership that from a political point of view this makes sense. Because the gentleman has very specifically pointed out how this is something that the public is going to be watching in terms of how they vote in November.

So, hopefully, we are lighting up a fire here tonight when we continue to bring up this issue. And although there are not a lot of days left in this session, there is certainly enough to get this passed.

I want to commend the gentleman again for being outspoken on this issue. Of course, as a physician, he is in the best position really to talk about these cases and analyze some of them. And I commend him, as a physician and as a Member of this body, for speaking out even though it is often at odds with his own leadership.

Again, I do not want to make this a partisan issue because I believe that

most Members of this body, whether Republican or Democrat, support this legislation. So I think we just have to keep at it and keep telling these stories and keep pointing out to our colleagues how important it is that this be brought up before we end the session this fall.

Mr. GANSKE. Reclaiming my time, I would just think that our constituents ought to consider real people who are affected by some of the horror stories that we are hearing from mismanaged care.

Let me give my colleague another example. We recently had a 28-year-old woman who was hiking in the Shenandoah Mountains not too far from here. She fell off a 40-foot cliff accidentally. Luckily, she was not killed. She had a fractured skull, was comatose, broken arm, broken pelvis, was lying at the bottom of this 40-foot cliff, nearly drowned in a nearby pool.

Fortunately, she had a hiking companion, was able to get a life flight, was taken to a hospital, spent a long time in the hospital, ICU, morphine drips, all sorts of things. Her HMO refused to pay for her hospitalization.

This is that woman, Jackie Lee, shortly before she was put onto the helicopter. The HMO refused to pay for her care because she had not phoned for a preauthorization, as they would say.

I ask my colleagues, Jackie Lee was lying there at the base of that 40-foot cliff, comatose, with a broken arm and pelvis, and a fractured skull. Was she supposed to wake up with her non-injured arm, pull her cellular phone out of her pocket, dial a number probably thousands of miles away to get an okay to go to the hospital?

And then after she was at the hospital, the HMO said, well, you did not notify us in time so we are not going to pay you on that reason also. Well, my goodness gracious, she was comatose in the ICU for a week. She was on intravenous morphine.

That is the type of real-life problem that all of those small business employers who answered this survey are aware of. They are aware of it either from their own families or friends or they are aware of it from their employees. That is why they are calling on Congress, just like everyone else, to do something.

I will just have to finish on this.

Mr. PALLONE. Before my colleague finishes, though, again, I assume that the cost of this care that she received was very expensive and that is another reason why they are denying it.

Mr. GANSKE. Reclaiming my time, I can guarantee my colleague that this young woman did not have the $12,000 to $15,000 that her HMO refused to pay. And neither would most people in this country.

So, I think that I would encourage all of our constituents from around the country to rise up in arms on this, to say, look, Congress may have killed tobacco legislation that would help prevent youngsters from smoking, maybe they are going to obfuscate on campaign finance reform. But I will tell my colleagues, there is one thing that Congress had darn well better do before it leaves because my daughter or my son's health may depend on it or my mother's or fathers's or my employees', and that is Congress needs to fix the mess that it has made in the past related to health plans and managed care.

If Congress does not handle this problem, we are going to hold you personally, congressman or congresswoman, responsible for doing this and we will hold the leadership responsible.

I will tell my colleagues, I am hearing from all over the country on this. The water is building up behind this dam on this issue. And I will just have to say that sometimes it takes remarkable actions to get the leadership of this House and the Senate to do what they ought to do for the betterment of our constituents. We very well may be looking at that in the very near future.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CLAYTON (at the request of Mr. GEPHARDT) for today after 3 p.m., on account of official business.

Mr. GREEN (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business in the district.

Mr. REYES (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. SUNUNU (at the request of Mr. ARMEY) for today after 4 p.m. And the balance of the week, on account of attending a wedding in the family.

Mr. WELDON of Florida (at the request of Mr. ARMEY) for today and on June 19 and 22, on account of family matters.

Mr. GUTKNECHT (at the request of Mr. ARMEY) for today after 1:30 p.m. And the balance of the week, on account of attending his son's graduation.

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. MEEHAN) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. POMEROY, for 5 minutes, today.

(The following Members (at the request of Mr. SHAYS) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Florida, for 5 minutes, on June 22.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. METCALF, 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. MEEHAN) and to include extraneous material:)

Mr. VENTO.
Mr. KIND.
Mr. HAMILTON.
Mr. FROST.
Mr. FORD.
Mr. DINGELL.
Mr. SANDLIN.
Mr. ROTHMAN.
Mr. ACKERMAN.
Mr. MCGOVERN.
Mr. LAFALCE.
Ms. LEE.
Mr. DAVIS of Florida.
Mr. BENTSEN.
Mr. STARK.
Ms. NORTON.
Mr. NEAL of Massachusetts.
Mr. LIPINSKI.
Mr. KUCINICH.
Mr. VISCLOSKY.
Mr. CONYERS.

(The following Members (at the request of Mr. SHAYS) and to include extraneous material:)

Mr. FRELINGHUYSEN.
Mr. WOLF.
Mr. DAVIS of Virginia.
Mr. GILMAN.
Mr. RADANOVICH.
Mr. DUNCAN.
Mr. PORTER.
Mr. YOUNG of Alaska.
Mr. PACKARD.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 1847. An act to improve the criminal law relating to fraud against consumers.

H.R. 3811. An act to establish felony violations for the failure to pay legal child support obligations, and for other purposes.

ADJOURNMENT

Mr. GANSKE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Friday, June 19, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9680. A letter from the General Counsel, Department of Defense, transmitting a report entitled "Department of Defense Panel to Study Military Justice in the National Guard Not in Federal Service," pursuant to Public Law 104—201, 110 Stat. 2534; to the Committee on National Security.

9681. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Conduct of Employees (RIN: 1990–AA19) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9682. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Information Security Program [DOE O 471.2A] received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9683. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996 [CC Docket No. 96–187] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9684. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend titles XIX and XXI of the Social Security Act to achieve improvements in outreach and provision of health care to children; to the Committee on Commerce.

9685. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Emissions Standards For Imported Nonroad Engines [T.D. 98–50] (RIN: 1515–AC28) received May 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9686. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotics Traffickers: Additional Designations [31 CFR Chapter V] received May 27, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9687. A letter from the Assistant Secretary for Strategy and Threat Reduction, Department of Defense, transmitting the joint Department of Defense and Department of Energy report to Congress on the Project Plan for the Russian Reactor Care Conversion Program, pursuant to Pub.L. 105—29; to the Committee on International Relations.

9688. A letter from the Executive Director, Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Procurement List Additions—received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9689. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft of proposed legislation to amend the Act which established the Weir Farm National Historic Site, in the State of Connecticut, by modifying the boundary and for other purposes; to the Committee on Resources.

9690. A letter from the Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Monterey Bay National Marine Sanctuary [Docket No. 971014243–7243–01] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9691. A letter from the Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Temporary Rule Prohibiting Anchoring by Vessels 50 Meters or Greater in Length on Tortugas Bank within the Florida Keys National Marine Sanctuary [Docket No. 971014245–7245–01] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9692. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking of Marine Mammals Incidental to Commercial Fishing Operations; Pacific Offshore Cetacean Take Reduction Plan Regulations [Docket No. 970129015–7220–05; I.D. 010397A] (RIN: 0648–AI84) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9693. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Seasonal Apportionments of Pollock [Docket No. 980331079–8144–09; I.D. 031198D] (RIN: 0648–AK71) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9694. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Tuna Fisheries; Atlantic Bluefin Tuna General Category [I.D. 100297A] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9695. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 [Docket No. 971208297–8054–02; I.D. 060598A] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9696. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Halibut Donation Program [Docket No. 980212037–8142–02; I.D. 012798A] (RIN: 0648–AJ87) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9697. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation: Fireworks displays within the First Coast Guard District [CGD01–98–065] (RIN: 2115–AE46) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9698. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone: Peekskill Summerfest 98 Fireworks, Peekskill Bay, Hudson River, New York [CGD01–98–050] (RIN: 2115–AA97) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9699. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revisions to Digital Flight Data Recorder Rules [Docket No. 28109; Amendment No. 11–44] (RIN: 2120–AF76) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9700. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AlliedSignal Inc. Model TPE331 Series Turboprop Engines [Docket No. 97–ANE–47–AD; Amendment 39–10565; AD 98–12–09] (RIN: 2120–AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9701. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Allison Engine Company Model AE 3007A Turbofan Engines [Docket No. 98–ANE–14–AD; Amendment 39–10568; AD 98–12–12] (RIN: 2120–AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9702. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS 332C, L, L1, and L2 Helicopters [Docket No. 98–SW–07–AD; Amendment 39–10571; 98–12–15] (RIN: 2120–AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9703. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320–111, -211, and -231 Series Airplanes [Docket No. 96–NM–184–AD; Amendment 39–10573; AD 98–12–18] (RIN: 2120–AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9704. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters [Docket No. 98–SW–10–AD; Amendment 39–10576; AD 98–12–22] (RIN: 2120–AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9705. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AERMACCHI S.p.A. S.205 Series and Models S.208 and S.208A Airplanes [Docket No. 97–CE–146–AD; Amendment 39–10570; AD 98–12–14] (RIN: 2120–AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9706. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CASA Model C–212 Series Airplanes [Docket No. 98–NM–97–AD; Amendment 39–10582; AD 98–12–28] (RIN: 2120–AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9707. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310 Series Airplanes Equipped With General Electric Model CF6–80A3 Series Engines [Docket No. 98–NM–182–AD; Amendment 39–10578; AD 98–

12-24] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9708. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes [Docket No. 98-NM-45-AD; Amendment 39-10580; AD 98-12-26] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9709. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace BAe Model ATP Airplanes [Docket No. 98-NM-53-AD; Amendment 39-10581; AD 98-12-27] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9710. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace BAe Model ATP Airplanes [Docket No. 97-NM-312-AD; Amendment 39-10579; AD 98-12-25] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9711. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—National Standards For Traffic Control Devices; Revision Of The Manual On Uniform Traffic Control Devices; Pedestrian, Bicycle, And School Warning Signs [FHWA Docket 96-9; FHWA-97-2281] (RIN: 2125-AD89) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9712. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model Viscount 744, 745, 745D, and 810 Series Airplanes [Docket No. 97-NM-321-AD; Amendment 39-10444; AD 98-12-17] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9713. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model AS 332C, L, L1, and L2 Helicopters [Docket No. 98-SW-07-AD; Amendment 39-10571; AD 98-12-15] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9714. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lucas Air Equipment Electric Hoists [Docket No. 98-SW-04-AD; Amendment 39-10583; AD 98-12-29] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9715. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Avions Mudry et Cie Model CAP 10B Airplanes [Docket No. 97-CE-126-AD; Amendment 39-10566; AD 98-12-10] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9716. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Industrie Aeronautiche e Meccaniche Model Piaggio P-180 Airplanes [Docket No. 97-CE-141-AD; Amendment 39-10569; AD 98-12-13] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9717. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of the Atlantic High Offshore Airspace Area; correction [Airspace Docket No. 97-ASO-16] (RIN: 2120-AA66) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9718. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establish Class E Airspace; Atkinson, NE [Airspace Docket No. 98-ACE-8] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9719. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revocation and Establishment of Class D; and Revocation, Establishment and Modification of Class E Airspace Area; Olathe, JOHNSON County Industrial Airport, KS; Correction [Airspace Docket No. 98-ACE-5] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9720. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Leeville, LA [Airspace Docket No. 98-ASW-27] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9721. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Sabine Pass, TX [Airspace Docket No. 98-ASW-28] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9722. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Intracoastal City, LA [Airspace Docket No. 98-ASW-24] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9723. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Venice, LA [Airspace Docket No. 98-ASW-25] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9724. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Grand Chenier, LA [Airspace Docket No. 98-ASW-26] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9725. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Grand Isle, LA [Airspace Docket No. 98-ASW-29] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9726. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Le Mars, IA [Airspace Docket No. 98-ACE-7] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9727. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Aurora, NE [Airspace Docket No. 98-ACE-13] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9728. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model SE3130, SA3180, SE313B, SA318B, and SA318C Helicopters [Docket No. 98-SW-03-AD; Amendment 39-10574; AD 98-12-20] (RIN: 2120-AA64) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9729. A letter from the Acting Deputy Director, NIST, National Institute of Standards and Technology, transmitting the Institute's final rule—GRANT FUNDS—Materials Science and Engineering Laboratory—Availability of Funds [Docket No. 970520119-7284-02] (RIN: 0693-ZA15) received June 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9730. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Federal Employment Tax Deposits——De Minimis Rule [TD 8771] (RIN: 1545-AW29) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9731. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Action on Decision in Paul A. Bilzerian v. United States, 86 F.3d 1067 (11th Cir. 1996), rev'd 887 F. Supp. 1509 (M.D. Fla. 1995), remanded sub nom. Steffen v. United States, 952 F. Supp. 779 (M.D. Fla. 1997) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9732. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to improve the operation of the United States Mint as a Performance-Based Organization (PBO) in the Department of Treasury, and for other purposes; jointly to the Committees on Banking and Financial Services and Government Reform and Oversight.

9733. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize a pilot program to increase the micro-purchase threshold in Government Procurements from $2,500 to $10,000; jointly to the Committees on Government Reform and Oversight and Small Business.

9734. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to establish an appropriate system for overtime pay for Federal firefighters, and for other purposes; jointly to the Committees on Government Reform and Oversight and Education and the Workforce.

9735. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare Program; Incentive Programs-Fraud and Abuse [HCFA-6144-FC] (RIN: 0938-AH86) received June 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

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. TALENT: Committee on Small Business. H.R. 3853. A bill to promote drug-free workplace programs; with an amendment (Rept. 105–584). Referred to the Committee on the Whole House on the State of the Union.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 477. Resolution providing for consideration of the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–585). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 478. Resolution providing for consideration of the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–586). 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. DUNCAN:

H.R. 4077. A bill to provide for establishment of a memorial to sportsmen; to the Committee on Resources.

By Ms. VELAZQUEZ (for herself, Mr. GOODE, Mrs. MCCARTHY of New York, Mr. LAFALCE, Mr. DAVIS of Illinois, and Mr. HINOJOSA):

H.R. 4078. A bill to increase funding for the Women's Business Center Program; to the Committee on Small Business.

By Mr. DOOLITTLE:

H.R. 4079. A bill to authorize the construction of temperature control devices at Folsom Dam in California; to the Committee on Resources.

By Mr. DINGELL (for himself, Mr. BROWN of Ohio, Mr. STUPAK, Mr. PALLONE, Mr. WAXMAN, Mr. MARKEY, Mr. BOUCHER, Mr. MANTON, Mr. GORDON, Ms. FURSE, Mr. RUSH, Mr. KLINK, Mr. WYNN, Mr. GREEN, Ms. MCCARTHY of Missouri, and Ms. DEGETTE):

H.R. 4080. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of food from foreign countries; to the Committee on Commerce.

By Mr. HUTCHINSON:

H.R. 4081. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas; to the Committee on Commerce.

By Mrs. KELLY:

H.R. 4082. A bill to allow depository institutions to offer interest-bearing transaction accounts and negotiable order of withdrawal accounts to all businesses, to repeal the prohibition on the payment of interest on demand deposits, to require the Board of Governors of the Federal Reserve System to pay interest on certain reserves, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. KUCINICH (for himself, Mr. LATOURETTE, and Mr. HAMILTON):

H.R. 4083. A bill to make available to the Ukrainian Museum and Archives the USIA television program "Window on America"; to the Committee on International Relations.

By Mr. SANDERS (for himself, Mr. FILNER, Mr. HINCHEY, Mr. KUCINICH, Mr. FRANK of Massachusetts, Mr. BORSKI, Mr. DEFAZIO, Mr. NADLER, Mrs. MINK of Hawaii, Mr. ABERCROMBIE, and Ms. FURSE):

H.R. 4084. A bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security and Medicare benefits under titles II and XVIII of the Social Security Act provided after 1999; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Michigan (for himself, Mr. PETERSON of Pennsylvania, and Mr. ISTOOK):

H.R. 4085. A bill to require congressional approval of proposed rules designated by the Congress to be significant; to the Committee on the Judiciary, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-MCDONALD:

H.R. 4086. A bill to amend the Small Business Act to increase the authorized funding level for women's business centers; to the Committee on Small Business.

By Mr. YOUNG of Alaska:

H.R. 4087. A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Alaska (for himself and Mr. KILDEE):

H.R. 4088. A bill to amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of Medicare, Medicaid, and other third-party payors, and to expand the eligibility under such program to other tribes and tribal organizations; to the Committee on Resources, and in addition to the Committees on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. WOOLSEY (for herself, Mr. FILNER, Mr. STARK, Mr. TOWNS, Mr. MCGOVERN, Ms. FURSE, Ms. SLAUGHTER, Mr. KENNEDY of Massachusetts, Mr. HINCHEY, Mr. OLVER, Mr. FALEOMAVAEGA, Ms. NORTON, Ms. LOFGREN, Mr. SANDERS, Mr. OWENS, and Mr. FRANK of Massachusetts):

H. Res. 479. A resolution recognizing the security interests of the United States in furthering complete nuclear disarmament; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

352. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 172 memorializing the Congress of the United States to increase funding to the Equal Employment Opportunity Commission to handle the backlog of individual cases; to the Committee on Education and the Workforce.

353. Also, a memorial of the House of Representatives of the Commonwealth of The Mariana Islands, relative to House Resolution No. 11–22 requesting the United States Congressional Committee who has jurisdiction of the Office of Insular Affairs to investigate allegations made against the CNMI government and its people; to the Committee on Resources.

354. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Concurrent Resolution No. 161 memorializing the United States Congress to enact legislation reauthorizing the federal highway program by May 1, 1998; to the Committee on Transportation and Infrastructure.

355. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 169 memorializing the Congress of the United States to refrain from imposing any special taxes on sport utility vehicles; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. GUTIERREZ introduced A bill (H.R. 4089) for the relief of Keysi Castillo Henriquez and Leydina Henriquez Aleman; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 74: Mr. HILLIARD, Mr. COYNE, Mr. NEAL of Massachusetts, Mr. DELAHUNT, Mr. MOAKLEY, Mr. TIERNEY, Mr. MARKEY, and Mr. MEEHAN.

H.R. 306: Mr. GEPHARDT, Ms. MCCARTHY of Missouri, Mr. OBEY, Mr. SPRATT, and Ms. STABENOW.

H.R. 371: Mrs. CAPPS.

H.R. 872: Mr. REDMOND.

H.R. 915: Mrs. THURMAN, Ms. ROS-LEHTINEN, Ms. MILLENDER-MCDONALD, Mr. BONIOR, Mr. BALDACCI, Mr. MEEKS of New York, Ms. KILPATRICK, Mr. YATES, Mr. SCHUMER, Ms. ROYBAL-ALLARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TOWNS, and Mr. BERMAN.

H.R. 922: Mr. HOSTETTLER.

H.R. 1018: Mr. LEWIS of Georgia.

H.R. 1047: Mr. LUTHER.

H.R. 1126: Ms. RIVERS and Mr. KANJORSKI.

H.R. 1173: Ms. LEE.

H.R. 1231: Mr. KILDEE and Mr. ENGLISH of Pennsylvania.

H.R. 1241: Ms. LOFGREN.

H.R. 1515: Mr. BLILEY.

H.R. 1531: Mr. SANDLIN.

H.R. 1800: Mr. MURTHA.

H.R. 1813: Mr. ACKERMAN.

H.R. 1915: Mr. TOWNS.

H.R. 2021: Mr. BOEHNER, Mr. LINDER, and Mr. BARTLETT of Maryland.

H.R. 2374: Mr. WAXMAN.

H.R. 2504: Mr. SNYDER and Ms. RIVERS.

H.R. 2519: Mr. DAVIS of Illinois.

H.R. 2599: Ms. WOOLSEY and Ms. LEE.

H.R. 2602: Mr. ENGLISH of Pennsylvania.

H.R. 2708: Mr. WATKINS, Mr. HILLIARD, Ms. FURSE, Mr. LEACH, Mr. NETHERCUTT, Mr.

CRAPO, Mr. SHAYS, Mr. SESSIONS, Mr. CALLAHAN, Mrs. EMERSON, and Mr. SMITH of Michigan.

H.R. 2721: Mrs. CUBIN.

H.R. 2800: Mr. CALVERT, Mr. BARRETT of Nebraska, Mr. EVANS, and Mr. GREEN.

H.R. 2817: Mr. SAM JOHNSON, Mr. NUSSLE, Mr. SHERMAN, Mr. SESSIONS, Mr. BILBRAY, Mrs. MORELLA, Mr. BASS, Mr. PAXON, Mr. MALONEY of Connecticut, Mr. OBERSTAR, Mr. BONIOR, and Mr. KNOLLENBERG.

H.R. 2820: Mr. MCGOVERN.

H.R. 2837: Mr. DREIER.

H.R. 2852: Mr. DINGELL.

H.R. 2908: Mr. BEREUTER, Mr. SNOWBARGER, and Mr. OBERSTAR.

H.R. 2942: Mr. COBURN.

H.R. 2968: Mr. BOB SCHAFFER OF COLORADO.

H.R. 3008: Mrs. LINDA SMITH of Washington and Mr. HILL.

H.R. 3050: Mr. MCDERMOTT.

H.R. 3053: Mr. HASTINGS of Washington and Mr. CUMMINGS.

H.R. 3081: Ms. DELAURO, Mr. CLAY, Ms. LEE, Mr. ANDREWS, and Mr. DEUTSCH.

H.R. 3189: Mr. HILL and Mr. HEFLEY.

H.R. 3240: Mr. MARTINEZ.

H.R. 3251: Mr. ABERCROMBIE, Mr. WEXLER, Mr. PRICE of North Carolina, Mr. HEFNER, and Mr. KUCINICH.

H.R. 3259: Mr. BORSKI.

H.R. 3299: Ms. CHRISTIAN-GREEN.

H.R. 3331: Mrs. CUBIN.

H.R. 3334: Mr. SANDLIN.

H.R. 3341: Mr. SNYDER.

H.R. 3342: Mr. BOEHLERT and Mr. BONIOR.

H.R. 3398: Mr. CHABOT.

H.R. 3506: Mr. LEVIN, Mr. PASCRELL, Mr. KLECZKA, and Mr. GORDON.

H.R. 3514: Mr. DAVIS of Illinois.

H.R. 3541: Mr. PAPPAS.

H.R. 3560: Mr. SHAYS.

H.R. 3568: Mr. GILMAN, Mr. ANDREWS, Mr. HINCHEY, Mr. CLEMENT, and Mr. PASTOR.

H.R. 3610: Mr. CUMMINGS, Mr. BAESLER, Mr. JONES, Mr. KIND, Mr. EHLERS, Mr. LEWIS of Kentucky, and Mr. JOHNSON of Wisconsin.

H.R. 3632: Mr. WHITFIELD.

H.R. 3654: Mr. PETERSON of Minnesota.

H.R. 3682: Mrs. NORTHUP, Mr. HALL of Ohio, Mr. MOLLOHAN, Mr. GRAHAM, and Mr. PETRI.

H.R. 3710: Mrs. JOHNSON of Connecticut, Mr. BLAGOJEVICH, Mr. BISHOP, Mr. LATHAM, Mr. MCDERMOTT, Mr. GOODE, Mr. HEFNER, Mr. BARRETT of Nebraska, Mr. MILLER of California, Mr. BROWN of Ohio, Mr. REGULA, Mr. COOK, Mrs. EMERSON, and Mr. PACKARD.

H.R. 3767: Mr. MINGE.

H.R. 3789: Mr. ROGAN.

H.R. 3795: Mr. FORBES.

H.R. 3821: Mr. WAXMAN, Mr. SPENCE, Mr. ROGAN, Mr. HOSTETTLER, Mr. KLUG, Mr. MCHUGH, and Mr. CHRISTENSEN.

H.R. 3879: Mr. HEFLEY, Mr. METCALF, Mr. DEUTSCH, Mr. CANNON, Mr. TAYLOR of North Carolina, Mr. HOUGHTON, and Mrs. NORTHUP.

H.R. 3897: Mr. NADLER.

H.R. 3898: Mr. CHABOT.

H.R. 3900: Mr. NADLER.

H.R. 3919: Mr. CALVERT and Mr. KINGSTON.

H.R. 3937: Mr. THOMPSON.

H.R. 3942: Mr. GREEN, Mr. DOOLEY of California, Mrs. BONO, Mr. DREIER, and Mr. TRAFICANT.

H.R. 3993: Mr. BRYANT and Mr. CLEMENT.

H.R. 4005: Mr. LAZIO of New York and Mr. FOLEY.

H.R. 4016: Mr. MCGOVERN.

H.R. 4022: Mr. PETERSON of Minnesota, Mrs. CHENOWETH, and Mr. METCALF.

H.R. 4049: Mr. BRYANT.

H.R. 4071: Ms. WATERS and Mr. ENGLISH of Pennsylvania.

H.J. Res. 122: Mr. FROST and Mr. HOUGHTON.

H.J. Res. 123: Mr. MCINTOSH, Mr. GOODE, Mr. REDMOND, Mr. NEY, and Mr. BOSWELL.

H. Con. Res. 203: Mr. EVERETT, Mr. ORTIZ, Ms. SANCHEZ, Mrs. MYRICK, Mr. LIPINSKI, Ms. DANNER, Mr. HINCHEY, Mrs. KELLY, and Mr. KIND of Wisconsin.

H. Con. Res. 210: Ms. DELAURO.

H. Con. Res. 258: Mr. ANDREWS and Mr. MEEHAN.

H. Con. Res. 271: Mr. ACKERMAN.

H. Res. 172: Mr. ACKERMAN.

H. Res. 212: Mr. KING of New York and Mr. PETERSON of Minnesota.

H. Res. 425: Mr. ENGLISH of Pennsylvania, Mr. DIXON, Mr. ABERCROMBIE, and Mr. DEFAZIO.

H. Res. 452: Mr. RAHALL, Mr. COBURN, Mr. ROGERS, Mrs. MYRICK, Mr. GOODLATTE and Mr. BURTON of Indiana.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. GILLMOR

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 134: Add at the end of title V the following new section (and conform the table of contents accordingly).

SEC. 510. PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.), is amended by adding at the end of the following new section:

"PROTECTING EQUAL PARTICIPATION OF ELIGIBLE VOTERS IN CAMPAIGNS AND ELECTIONS"

"SEC. 326. Nothing in this Act may be construed to prohibit any individual eligible to vote in an election for Federal office from making contributions or expenditures in support of a candidate for such an election (including voluntary contributions or expenditures made through a separate segregated fund established by the individual's employer or labor organization) or otherwise participating in any campaign for such an election in the same manner and to the same extent as any other individual eligible to vote in an election for such office."

H.R. 2183

OFFERED BY: MR. SALMON

(To the Amendments Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 135: Add at the end the following new title:

TITLE ___—POSTING NAMES OF CERTAIN AIR FORCE ONE PASSENGERS ON INTERNET

SEC. ___01. REQUIREMENT THAT NAMES OF PASSENGERS ON AIR FORCE ONE AND AIR FORCE TWO BE MADE AVAILABLE THROUGH THE INTERNET.

(a) IN GENERAL.—The President shall make available through the Internet the name of any non-Government person who is a passenger on an aircraft designated as Air Force One or Air Force Two not later than 30 days after the date that the person is a passenger on such aircraft.

(b) EXCEPTION.—Subsection (a) shall not apply in a case in which the President determines that compliance with such subsection would be contrary to the national security interests of the United States. In any such case, not later than 30 days after the date that the person whose name will not be made available through the Internet was a passenger on the aircraft, the President shall submit to the chairman and ranking member of the Permanent Select Committee on Intelligence of the House of Representatives and of the Select Committee on Intelligence of the Senate—

(1) the name of the person; and

(2) the justification for not making such name available through the Internet.

(c) DEFINITION OF PERSON.—As used in this Act, the term "non-Government person" means a person who is not an officer or employee of the United States, a member of the Armed Forces, or a Member of Congress.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 136: Amend title II to read as follows:

TITLE II—PAYCHECK PROTECTION

SEC. 201. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Doolittle)

AMENDMENT NO. 137: Add at the end the following new section:

SEC. 7. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Bass)

AMENDMENT NO. 138: Strike section 501 and insert the following (and conform the table of contents accordingly):

SEC. 501. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 139: Strike section 501 and insert the following (and conform the table of contents accordingly):

SEC. 501. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Snowbarger)

AMENDMENT NO. 140: Amend section 5(b) to read as follows:

(b) PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.—

(1) IN GENERAL.—Section 316 of such Act (2 U.S.C. 441b), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

AMENDMENT NO. 141: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PAYCHECK PROTECTION

SEC. 401. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the

issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 142: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PAYCHECK PROTECTION

SEC. 401. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Obey)

AMENDMENT NO. 143: Insert after title V the following new title (and redesignate the succeeding provisions accordingly):

TITLE VI—PAYCHECK PROTECTION

SEC. 601. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Tierney)

AMENDMENT NO. 144: Insert after title V the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE VI—PAYCHECK PROTECTION

SEC. 601. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Farr)

AMENDMENT NO. 145: Add at the end of title VII the following new section (and conform the table of contents accordingly):

SEC. 704. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as amended by section 304, is further amended by adding at the end the following new subsection:

"(d)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office, influencing the consideration or outcome of any Federal legislation or the issuance or outcome of any Federal regulations, or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 146: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS

SEC. 401. REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS

"SEC. 324. (a) IN GENERAL.—In such manner as the Commission shall prescribe by regulation, prior to the dissemination of any Federal political advertisement, each operator of a radio broadcasting station, television broadcasting station, or cable system shall report to the Commission the true identity of each advertiser and the cost, duration, and other appropriate information with respect to the advertisement.

"(b) FEDERAL POLITICAL ADVERTISEMENT DEFINED.—In this section, a 'Federal political advertisement' includes any advertisement advocating the passage or defeat of Federal legislation, any advertisement advocating the election or defeat of a candidate for Federal office, and any advertisement characterizing the positions taken by such a candidate.".

H.R. 2183

OFFERED BY: MR. SMITH OF MICHIGAN

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 147: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS

SEC. 401. REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 301, is further amended by adding at the end the following new section:

"REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS

"SEC. 324. (a) IN GENERAL.—In such manner as the Commission shall prescribe by regulation, prior to the dissemination of any Federal political advertisement, each operator of a radio broadcasting station, television broadcasting station, or cable system shall report to the Commission the true identity of each advertiser and the cost, duration, and other appropriate information with respect to the advertisement.

"(b) FEDERAL POLITICAL ADVERTISEMENT DEFINED.—In this section, a 'Federal political advertisement' includes any advertisement advocating the passage or defeat of Federal legislation, any advertisement advocating the election or defeat of a candidate for Federal office, and any advertisement characterizing the positions taken by such a candidate.".

H.R. 2183

OFFERED BY: MR. SMITH OF MICHIGAN

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 148: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS

SEC. 401. REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS

"SEC. 324. (a) IN GENERAL.—In such manner as the Commission shall prescribe by regulation, prior to the dissemination of any Federal political advertisement, each operator of a radio broadcasting station, television broadcasting station, or cable system shall report to the Commission the true identity of each advertiser and the cost, duration, and other appropriate information with respect to the advertisement.

"(b) FEDERAL POLITICAL ADVERTISEMENT DEFINED.—In this section, a 'Federal political advertisement' includes any advertisement advocating the passage or defeat of Federal legislation, any advertisement advocating the election or defeat of a candidate for Federal office, and any advertisement characterizing the positions taken by such a candidate.".

H.R. 2183

OFFERED BY: MR. SMITH OF MICHIGAN

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 149: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"REPORTS ON FEDERAL POLITICAL ADVERTISEMENTS CARRIED BY RADIO STATIONS, TELEVISION STATIONS, AND CABLE SYSTEMS

"SEC. 326. (a) IN GENERAL.—In such manner as the Commission shall prescribe by regulation, prior to the dissemination of any Federal political advertisement, each operator of a radio broadcasting station, television broadcasting station, or cable system shall report to the Commission the true identity of each advertiser and the cost, duration, and other appropriate information with respect to the advertisement.

"(b) FEDERAL POLITICAL ADVERTISEMENT DEFINED.—In this section, a 'Federal political advertisement' includes any advertisement advocating the passage or defeat of Federal legislation, any advertisement advocating the election or defeat of a candidate for Federal office, and any advertisement characterizing the positions taken by such a candidate.".

H.R. 2183

OFFERED BY: MR. SNOWBARGER

(To the Amendments Offered By: Mr. Shays)

AMENDMENT NO. 150: Add at the end the following new title:

TITLE ___—ENHANCING ENFORCEMENT OF CAMPAIGN LAW

SEC. ___01. ENHANCING ENFORCEMENT OF CAMPAIGN FINANCE LAW.

(a) MANDATORY IMPRISONMENT FOR CRIMINAL CONDUCT.—Section 309(d)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended—

(1) in the first sentence, by striking "shall be fined, or imprisoned for not more than one year, or both" and inserting "shall be imprisoned for not fewer than 1 year and not more than 10 years"; and

(2) by striking the second sentence.

(b) CONCURRENT AUTHORITY OF ATTORNEY GENERAL TO BRING CRIMINAL ACTIONS.—Section 309(d) of such Act (2 U.S.C. 437g(d)) is amended by adding at the end the following new paragraph:

"(4) In addition to the authority to bring cases referred pursuant to subsection (a)(5), the Attorney General may at any time bring a criminal action for a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions brought with respect to elections occurring after January 1999.

H.R. 2183

OFFERED BY: MR. SNOWBARGER

(To the Amendments Offered By: Mr. Shays)

AMENDMENT NO. 151: Add at the end the following new title:

TITLE ___—INCREASE IN FEC AUTHORIZATION

SEC. ___01. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL ELECTION COMMISSION.

Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by adding at the end the following new sentence: "There are authorized to be appropriated to the Commission $60,000,000 for each of the fiscal years 1999, 2000, and 2001, of which not less than $28,350,000 shall be used during each such fiscal year for enforcement activities.".

H.R. 2183

OFFERED BY: MR. ENGLISH OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 152: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PROHIBITING BUNDLING OF CONTRIBUTIONS.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) No person may make a contribution through an intermediary or conduit, except that a person may facilitate a contribution by providing—

"(A) advice to another person as to how the other person may make a contribution; and

"(B) addressed mailing material or similar items to another person for use by the other person in making a contribution.".

H.R. 2183

OFFERED BY: MR. ENGLISH OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 153: Amend section 301(20)(A)(ii) of the Federal Election Campaign Act of 1971, as added by section 201(b) of the substitute, to read as follows:

"(ii) mentioning a political party or a clearly identified candidate for election for Federal office by name, image, or likeness during the 60-day period which ends on the date of a general election for Federal office (not including any days during such period which occur prior to any primary election in which the candidate involved appears on the ballot), other than a communication which is not made to the general public or a communication which is described in section 301(9)(B)(i); or

H.R. 2183

OFFERED BY: MR. ENGLISH OF PENNSYLVANIA

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 154: Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. DISCLOSURE OF INFORMATION BY PERSONS CONDUCTING POLLS DURING FEDERAL ELECTION CAMPAIGNS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended

by sections 101, 401, and 507, is further amended by adding at the end the following new section:

"DISCLOSURE OF INFORMATION BY PERSONS CONDUCTING POLLS BY TELEPHONE

"SEC. 326. (a) IN GENERAL.—Any person who conducts a poll by telephone or electronic means to interview individuals on opinions relating to any election for Federal office (other than an election for President or Vice President) in which the number of households surveyed is equal to or greater than the applicable threshold described in subsection (b) shall disclose to each respondent to the poll the identity of the person sponsoring the poll or paying the expenses associated with the poll.

"(b) APPLICABLE THRESHOLD OF HOUSEHOLDS SURVEYED.—For purposes of subsection (a), the 'applicable threshold' with respect to a poll is—

"(1) 2,500 households, in the case of a poll relating to an election for the office of Senator or of Representative from a State which is entitled to only one Representative; or

"(2) 1,000 households, in the case of a poll relating to an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress from any other State.".

EXTENSIONS OF REMARKS

H.R. 3662, THE U.S. HOLOCAUST ASSETS COMMISSION ACT OF 1998

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. SANDLIN. Mr. Speaker, few events in the course of human history have affected the human psyche as profoundly as the attempted extermination of the Jewish race by the Nazi regime in World War II. This dark period in our past serves as a reminder of what must never again come to pass. However, lingering questions regarding the disposition of holocaust victims' assets and the role of neutral countries in the theft of these assets have precluded our conclusively closing the door on this chapter in history. The bill we have before us today, H.R. 3662, the U.S. Holocaust Assets Commission Act of 1998, gives us this opportunity.

In the House Banking and Finance Committee, we have held four hearings of this subject, beginning in December of 1996. In the past two years, several European nations and other nations scattered around the globe have created commissions to investigate their own role in the theft of holocaust victim's assets. The investigations have broadened past individual bank accounts to include such assets as artwork and insurance claims. It is time for the United States to do the same and examine the actions of the U.S. Federal Government with regard to holocaust victims' assets that flowed into America after Hitler seized power in Germany.

The June 2, 1998, preliminary report by the Administration's task force and Under Secretary of State Stuart Eizenstat, represents a significant level of commitment by the U.S. Federal Government and an important step in the process. The report also provides an alarming amount of compelling evidence regarding cooperation with the Nazis by neutral countries. These countries accepted large shipments of gold and other assets plundered from Holocaust victims and exchanged critically needed war materials. It is imperative that we continue to study this issue and develop a deeper understanding of the circumstances and consequences of these events.

H.R. 3662 is a good, bipartisan bill that will help America explore many of these same issues as they may have occurred on our own soil. By December 31, 1999, the President and Congress should receive a report from the commission and will have the information necessary to bring justice and closure to questions of the disposition of holocaust victims' assets in America. It is what we, as a nation, must do. I urge all my colleagues to support his bill.

CARMINE J. SPINELLI—40 YEARS OF FEDERAL CIVIL SERVICE

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise to pay tribute to Mr. Carmine Spinelli of Whitehouse Station, New Jersey. After forty years of Federal civilian service at the United States Army Tank-Automotive and Armaments Command, Armament Research, Development and Engineering Center at Picatinny Arsenal, New Jersey, Carmine will officially retire on July 3, 1998. This evening, June 24, 1998, Mr. Spinelli is being honored for his many years of dedicated service.

Carmine is a native of New Jersey originally from Raritan, a wonderful municipality in Somerset County, and a graduate from Purdue University with a Bachelor of Science Degree in Metallurgical Engineering. He began his civil service career in June 1958 as a Mechanical Engineer in the Feltman Research and Engineering Laboratory, Picatinny Arsenal. For more than thirty years he worked and progressed from a Design Engineer to a Division Chief in the Fire Support Armaments Center in 1985. In this capacity, he was responsible for the management and execution of Life Cycle Engineering.

In June 1990, he was promoted to the Senior Executive Services (equivalent to Brigadier General in the United States Army) and was appointed as the Deputy Director of the Fire Support Armaments. In this position for many years, he managed an organization of more than 1,000 scientists and engineers involved in research, development and engineering of a variety of armaments including, artillery, mortars, mines, demolitions, precision munitions and related fire control systems for the entire United States Army. Mr. Spinelli was appointed to the position of Technical Director at the United States Army Armament Research, Development and Engineering Center (an SES rank equivalent to a Major General in the United States Army) in April 1995. Not only was Mr. Spinelli responsible for all technical operations, he managed an annual operating budget of 600 million dollars and a technical staff of over 2,000 scientists and engineers with approximately 2,000 support personnel.

I would be hard pressed to list all of Carmine's accomplishments and special citations here today. But, I must highlight the fact that Carmine has been instrumental in the many successes Picatinny Arsenal has achieved. In 1995, Picatinny Arsenal received the Quality Improvement Prototype; Co-winner, Army R&D Organization of the Year. In 1996, Picatinny Arsenal was awarded the Best Medium Size Installation; R&D Center of Excellence; Commander in Chief Award for Installation Excellence; Presidential Award for Quality; Quality Partner Award from Quality New Jersey and in 1997 the R&D Center of Excellence. As you know, these awards are the most prestigious and coveted in the military. In fact, they are often referred to as the Triple Crown of military achievements. Personally, Carmine has received the Army's highest civilian award, he Decoration for Exceptional Civilian Service Award, 1990.

Mr. Speaker, I ask that you join me, our colleagues, Carmine's family and friends and his colleagues at Picatinny Arsenal in recognizing Carmine Spinelli's many outstanding and invaluable contributions to New Jersey and to our nation. His dedication and service can only be described as above and beyond the call of duty. His work has kept our young men and women in our military safe and well equipped wherever they serve, whether at home or abroad. For his lifetime of work, we are deeply grateful.

REMEMBERING DONALD E. KIDWELL, SR.

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. DAVIS of Virginia. Mr. Speaker, it is with deep sadness that I rise today to announce the passing of Donald E. Kidwell Sr. His contributions to Prince William County will be long remembered. Don died unexpectedly of cardiac arrest at Mary Washington Hospital in Fredericksburg. He was only 54. It is hard for me to believe that such a dedicated citizen is gone.

In addition to being born in Northern Virginia, he lived in and served the area for his entire life. He attended the University of Virginia from 1961 to 1963 and then graduated from George Mason University in 1970 with a Bachelor of Arts in history. Don made his living as president of Kidwell Title and Abstract Co., although his penchant for local politics led him to serve two four-year terms on the Prince William County Board of Supervisors.

Don, an Arlington native, represented the Woodbridge District on the board from 1980 to 1988. In 1991, he retired from local politics following an unsuccessful campaign against Democrat Kathleen Seefeldt in the race for the first-ever chairman of the board. However, he never lost touch with the political scene. He had a true love for Prince William County and its politics. Don always lived life to the fullest and his unfailing jovial manners remained with him till the end.

Even when his title office opened on Saturdays to make time for overflow work, Don always made time for community service activities. He could be found at any number of civic callings including as a negotiator on Prince William County's behalf with the Woodbridge

District, Manassas, and Manassas Park and as former chairman of the Potomac-Rappahanock Transportation District. In addition, he sat on the board of the Prince William County Symphony, and he was the president of the Boys' and Girls' Club of Prince William County.

Donald is survived by his wife Jacqueline as well as five children, two brothers and two sisters.

Mr. Speaker, I know that my colleagues and the citizens of Prince William County join me in mourning Donald's passing. His presence in the community will be missed, but his many accomplishments and good deeds will be fondly remembered.

PERSONAL EXPLANATION

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FORD. Mr. Speaker, on Tuesday, June 16, 1998, I was unavoidably detained on official business and missed the following rollcall votes: No. 232 and No. 233. Had I been present, I would have voted "aye" on rollcall No. 232 and "aye" on rollcall No. 233.

Mr. Speaker, on Wednesday, June 17, 1998, I was unavoidably detained at the White House and missed rollcall vote No. 234. Had I been present, I would have voted "nay" on rollcall No. 234.

PLEDGE OF ALLEGIANCE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. PACKARD. Mr. Speaker, I rise today to reiterate my allegiance and pride in our nation, its flag and the words we speak to express these beliefs. Recently in my home district, a high school student refused to stand and say the words, "I Pledge Allegiance to the Flag, of the United States of America, . . . " While I have been disappointed to learn of the students refusal, perhaps it can serve as a reminder of just why we say the pledge.

The words we call "The Pledge of Allegiance" were first written on paper in 1892 by Francis Bellamy, a Baptist minister. Bellamy was also a chairman of a committee of state superintendents of education in the National Education Association. Part of his job description was to prepare the program for the public schools' quadricentennial celebration for Columbus Day in 1892. Bellamy structured this public school program around a flag raising ceremony and a flag statute, now known as "The Pledge of Allegiance."

Mr. Bellamy also jotted down a journal of what he was thinking while be formulated our nation's words of Allegiance. It reads, "The true reason for allegiance to the Flag is the 'republic for which it stands' . . . And what does that vast thing, the Republic mean? It is the concise political word for the Nation—the One Nation which the Civil War was fought to prove. To make the One Nation idea clear, we must specify that it is indivisible, as Webster and Lincoln used to repeat in their great speeches."

Mr. Speaker, as you know, every day this Congress meets, someone in the U.S. House of Representatives gives a prayer and recites "The Pledge of Allegiance." I personally see this as a symbol of respect and pride in our country, and I am thankful each day that I can serve our nation.

IN HONOR OF A VALUED VETERAN, JUEL MARIFJEREN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to pay my respects to the memory of Juel Marifjeren, who passed away on Wednesday May 20, 1998. The life of Juel Marifjeren was taken prematurely as he was preparing to go home from a day of work. I would like to take this time to extend my condolences to the family and friends of Juel Marifjeren, especially his wife, Kathleen and two children, Elizabeth and Steven.

Juel Marifjeren was a loving husband, father and respected employee of the United States Army from 1967 to 1969. Juel Marijeren dedicated his life to serving others, and his fellow veterans. He will be sorely missed by all who have come in contact with Juel.

It is a privilege for me to rise today to honor a fine man, husband, father and veteran. May he rest in peace, and may the Lord grant peace and comfort to the family and friends of Juel Marifjeren.

THE OFFICIAL LAUNCH OF EASTBAY WORKS AT THE OAKLAND PRIVATE INDUSTRY COUNCIL'S OAKLAND CAREER CENTER

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Ms. LEE. Mr. Speaker, it gives me great pleasure to rise today to congratulate the Oakland Private Industry Council as it celebrates the official launch of EASTBAY Works, a one-stop career and human resources center. A total of seventeen one-stop centers will operate throughout the East Bay and the Oakland Private Industry Council is proud to have an EASTBAY Works site located at their Oakland Career Center.

EASTBAY Works is the direct result of a collaborative effort among organizations which recognized the need for coordinated, comprehensive services from the work force development community. Its purpose is to advance the economic well-being of the region by developing and maintaining a skilled workforce. This will be accomplished through a customer-focused collaboration of employment, training, economic development and educational partners working together to meet the needs of employers, job seekers and workers.

EASTBAY Works will serve a wide range of individuals, such as, career changers, welfare recipients looking to enter the workplace, down-sized middle managers, under-employed workers, recent graduates, youth and more. It will offer a broad range of free services and resources, including: a career resource room, with telephones, faxes, and computers; job listings; job search skills training; information about and referral to job training programs; labor market information and on-line access to the state of California's Employment Development Department.

Employers will also receive services through EASTBAY Works. These employers will be matched with an employer representative who will provide services including; job posting capability in the career center and through the Internet, recruiting assistance with access to a large diverse pool of job applicants, labor market data and information about tax credits, hiring incentives and business permits.

EASTBAY Works is an exciting and innovative endeavor which will serve as a model for career centers across the entire nation.

FASTENER QUALITY ACT AMENDMENTS

SPEECH OF

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1998

Mr. HASTERT. Mr. Speaker, I rise in support of H.R. 3824, the Fastener Quality Act Amendments. I would like to commend the work of the Science Committee, Chairman SENSENBRENNER and Mr. BROWN; as well as the efforts of Chairwoman MORELLA and Mr. BARCIA of the Technology Subcommittee.

Mr. Speaker, H.R. 3824 is important and urgently needed legislation. As my colleagues know, the Fastener Quality Act was enacted eight years ago when there was considerable concern about defective and counterfeit fasteners, mostly manufactured in foreign countries, which were found in military equipment, bridges, and airplanes.

However, much has changed over the past eight years, especially in terms of the technology now employed by the fastener industry to guarantee quality. This bill accomplishes two important goals. First, it eliminates the unnecessary and duplicative regulatory burden on fasteners produced to the standards and specifications of aviation manufacturers which are already regulated by the FAA. And, secondly, this Act delays implementation of the Final Rule for the Fastener Quality Act issued on April 14, 1998 and due to be implemented on July 26, 1998.

During this delay, the Secretary of Commerce will undertake and review the Fastener Quality Act in light of the new advances in technology made by the fastener industry and determine what changes are needed, if any, to assure consumer safety on the one hand and prevent unnecessary and outdated regulation on the other.

Mr. Speaker, the simple fact is that in many ways the industry has moved beyond the Fastener Quality Act passed eight years ago.

Since 1990, enormous strides have been made by both the manufacturers of fasteners and their customers in the way they insure the quality and safety of their products. For example, although the Fastener Quality Act originally envisioned an end-of-the-line lot testing procedures, the fastener industry's quality assurance systems have evolved substantially beyond this to testing throughout the manufacturing process. Even NIST concedes that this method is far superior to lot testing.

Although NIST attempted to accommodate these new procedures in their Final Rule, I am concerned that they were not able to go far enough. The Final Rule does not fully accommodate the new advances in quality demanded by major users of fasteners such as the auto industry. Because of this, if the Final Rule is allowed to go into force on July 26, 1998, serious disruptions to our economy could result.

I am particularly pleased that during the delay in implementation of the Final Rule, this bill requires the Secretary of Commerce to issue a report to Congress on possible changes needed in this Act to account for the advances in quality techniques now common in the fastener industry. It is important that Congress gain a clear understanding of the impact this regulation will have upon our economy, the technological improvements that the fastener industry has made over the past eight years, and the improvements in quality that are likely to occur in the future as the result of further technological advances. It is probable that, as a result of this report, Congress will have to revisit the Fastener Quality Act to insure that the highest quality standards, either in place now or that will arise in the future, are not legislated out of existence.

Mr. Speaker, this is clearly a case of where the best intentions went astray. Although the concerns that prompted the adoption of the Fastener Quality Act were real, the solution proposed by this legislation actually threatens the very quality it seeks to insure. The clear problem with the Fastener Quality Act is that it attempts to legislate advances in technology. It is very difficult for anyone to see into the future and determine what tools will be available to industry in terms of their manufacturing processes and quality control. It is my hope that the Secretary of Commerce in his report to Congress will suggest ways in which changes to the law can be made to guarantee the quality and safety of critical fasteners, but in a manner that allows for, and promotes, both the technology of today and of the future.

Mr. Speaker, I again wish to thank the distinguished Chairman of the Science Committee and urge my colleagues to support this important legislation.

HONORING DR. NANCY W. DICKEY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. BENTSEN. Mr. Speaker, I rise to congratulate Dr. Nancy W. Dickey as she becomes president of the American Medical Association and to recognize the tremendous contributions she has made to the Texas A&M University Health Science Center College of Medicine and the nation's medical community. She will be honored at A Star for Texas dinner on July 24, 1998, benefiting the Dean's Excellence Scholarship Fund to increase scholarships for economically disadvantaged students.

On June 17, 1998, Dr. Dickey became the first woman to assume the presidency of the American Medical Association. She is also an associate professor in the Department of Family and Community Medicine at Texas A&M University Health Science Center College of Medicine.

Dr. Dickey joined the College of Medicine faculty in January 1996. In addition to teaching, she directs both the Family Practice Residency Foundation of the Brazos Valley and the Family Medicine Center in Bryan, Texas, which provides training for up to 18 family medicine residents.

Dr. Dickey assumed her first leadership role with the AMA in 1977 when she served as the first elected resident member of the Council on Medical Services. She was elected to the AMA Board of Trustees in 1989, serving as chair of the Board's Finance committee, as Vice Chair of the Board, and later as Chair. She was AMA commissioner to the Joint Commission on Accreditation of Health Care Organizations from 1989–1995.

Dr. Dickey served as a member of the AMA's Council on Ethical and Judicial Affairs from 1980–1989 and as the Council's Chair from 1984–1987. She has been a powerful voice for the AMA in its opposition to physician-assisted suicide and is often called upon to testify regarding the national debate on medical policy and other issues. She was also instrumental in helping to create and launch one of the Association's newest initiatives, the AMA's Patient Safety Foundation.

Dr. Dickey received both her M.D. and her residency training at the University of Texas Medical School at Houston, where she was a recipient of the Distinguished Alumni Award. She also served as vice president of the Texas Medical Association from 1986–1987, is a fellow of the American Academy of Family Physicians, and has been a certified Diplomate of the American Board of Family Practice since 1994.

I commend Dr. Dickey on her numerous achievements and her contributions to the medical community, and I congratulate her on becoming President of the AMA. She is a caring physician, an excellent teacher, an expert on health care policy and medical ethics, a respected role model, and a pathbreaking leader. I have no doubt that the future will bring even greater accomplishments that will benefit the nation and the practice of medicine.

HONORING MENTAL HEALTH ADVOCATES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. GILMAN. Mr. Speaker, today I rise to recognize the outstanding mental health volunteers and professionals who are being honored by the National Mental Health Association at the 1998 Clifford Beard National Mental Health Conference. I urge my colleagues to join me in acknowledging these outstanding individuals for their efforts in the field of mental health. The Mental Health Association of Orange County, New York has shown great innovation in the field and were honored at this convention.

The National Mental Health Association is the only organization dedicated to addressing all aspects of mental health illness. NMHA works with a network of 330 nationwide affiliates to promote mental health and prevent mental health disorders, and achieve victory over mental illnesses through advocacy, education, research and service.

For their impressive innovation and creativity, the Mental Health Association in Orange County will receive the NMHA Innovation in Programming Award. The Invisible Children's Program works to support parents with a diagnosis of a mental illness in their efforts to be the best possible parent and to keep the family unit together. Studied by researchers throughout the world, this program has served nearly 500 individuals, lessened hospitalizations, and decreased the numbers of children placed in foster care.

The Mental Health Association in Orange County, Inc. seeks to promote the mental health and emotional well-being of Orange County residents, working toward the prevention of mental illnesses and developmental disabilities. In partnership with consumers and their families, MHA strives to fulfill its mission through direct services, public education, advocacy and responsiveness in times of community emergency.

The MHA is a private, non-profit organization which provided free mental health service to 22,000 Orange County residents by over 300 volunteers in 1997. Volunteers answer hotlines, provide companionship, direct services, and assist with fundraisers. The Orange County Mental Health Association is funded through state, county, and federal grants, and is a United Way member agency.

Mr. Speaker, please join me in recognizing the accomplishments of the Orange County Mental Health Association. The members of this organization has provided invaluable services to the residents of our county, and is deserving of the honor being bestowed upon them.

CONDEMNING THE BRUTAL KILLING OF MR. JAMES BYRD, JR.

SPEECH OF

HON. DONNA M. CHRISTIAN-GREEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise today to address the tragedy which occurred last week in Jasper, Texas, the violent death of Mr. James Byrd, Jr., and I thank Representative WATERS for her leadership in calling this evening's special order.

Mr. Speaker, we are at the end of the 20th century and three decades past the vicious

acts of the sixties, and yet here we are in 1998 faced with the brutal reality that racism is not dead.

This crime on at least two counts—race and disability—is clearly a hate crime, as defined by Federal law. It was a heinous act that should alert the entire country that we as a nation do have a problem with differences, even today.

It is clear that racism still exists, and that it exists even in communities like ours where on the surface, different races, ethnicities and nationalities appear to be in harmony. As a member of the CBC, and a leader in the Virgin Islands, as well as the Nation, it is important that I re-commit my efforts to ridding our communities of all divisiveness, prejudice and intolerance. I call on all the leaders of this Nation, political or otherwise, to do the same.

TAX CODE TERMINATION ACT

SPEECH OF

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. DAVIS of Florida. Mr. Speaker, I rise in opposition to H.R. 3097, the Tax Code Termination Act. This legislation may sound great on a bumper sticker but it has no place on the floor of the House of Representatives. This bill would simply terminate the tax code without any guarantee that it will be replaced by a simpler, fairer tax system.

I understand the frustration with the current tax system and wholeheartedly agree with those who believe it is overly complex and in desperate need of reform. We all know that the current tax code results in extreme bureaucratic costs, unintended loopholes, and headaches for every American taxpayer. But the answer is to reform the code. The answer is to hold substantive hearings on alternative proposals. The answer is to take responsible action to improve the system. This bill is neither responsible nor substantive and it is neither reform nor the answer.

As elected representatives we have a responsibility to govern. Rather than sitting down together and discussing alternative tax systems and their relative merits, this legislation takes the approach that if we set up a train wreck down the line, we are going to be forced to come together and make decisions. Well, we all remember how well the train wreck approach worked during the government shutdowns of 1995. Unfortunately, the consequences of this game of chicken are far more sweeping, putting at risk the entire American economy.

Mr. Speaker, we should not put our economy at risk for the sake of political posturing. We all know passage of this bill will not move us one step closer to real tax reform. Let us reject this legislation and instead begin a serious dialogue on how best to reform our Nation's tax code.

1998 SPIRIT OF ACHIEVEMENT AWARD

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to the recipients of the Spirit of Achievement Award.

Each year, I recognize students in the 8th grade graduating classes who have excelled in the classroom, completed community service projects, and participated in extracurricular activities. These students are to be commended for their dedication, leadership, and community pride. They do represent the best and brightest of today's youth.

I am honored to announce the recipients of the 1998 Spirit of Achievement Award:

St. Camillus School: Katarzyna Zagorski and Gregory Jachymiak

Dore School: Timeka Cooley and Benjamin Ayala

St. Jane De Chantal School: Krystyna Kowalkowski and Andrew Wilk

Hearst School: Shemika Perkins and Arthur Bailey

St. Bruno School: Katarzyna Rogala and Matthew Chyba

Kinzie School: Christina Smith and Daniel Zajaczkowski

St. Daniel the Prophet School: Stephanie Berent and Samuel Pavelka

Byrne School: Tara Murphy and Nicholas Walker

St. Richard School: Alexandra Komonrowski and Michael Poineau

Mark Twain School: Mary Gacek and Devin Miarka

St. Symphorosa School: Lauren Ewalt and Anthony Miller

Nathan Hale School: Adriana Misterka and Lukasz Kulesza

St. Rene School: Gina Augustyn and Daniel DeBias

Peck School: Armando Garcia and Richard Piwowarski

Our Lady of Snows School: Bryan Kaminski and Kevin Siedlecki

Edward School: Ewelina Kalinowska and Ali Panjwani

Gloria Dei School: Kaitlin Reedy and Bethany Giebel

Mr. Speaker, I congratulate these students on their graduation from grammar school. I salute them for their remarkable accomplishments in and out of the classroom. But most importantly, my best wishes to each and every recipient as they enter high school and encounter new and exciting challenges.

PERSONAL EXPLANATION

HON. JOHN R. THUNE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. THUNE. Mr. Speaker, I was unable to vote on roll call votes 193, 194, 195, in order to accompany the Vice President as we assessed the horrible damage suffered in Spencer, South Dakota. As my colleagues may recall, a tornado struck this town of approximately 300 people, destroying nearly every structure in town. Had I been present, I would have voted "aye" on each of the votes.

TAX CODE TERMINATION ACT

SPEECH OF

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1998

Mr. PACKARD. Mr. Speaker, I rise today in support of H.R. 3097, The Tax Code Termination Act. This bill will sunset the tax code by 2002 and force policy makers in Washington to implement a fair replacement.

April 15th should not be a day of anxiety and tension for our constituents. American businesses will spend 3.4 billion hours, and individuals will spend 1.7 billion hours, trying to comply with the tax code. That's equivalent to a staff of three million people working full time, year round, just on taxes. H.R. 3097 will hold Congress accountable for amending the code by December 31, 2002, just a short four years away.

The horror stories my constituents have shared with me on simply filing their EZForm 1040 are ludicrous. The EZForm 1040 is the IRS' "simplest" return, and yet it has 33 pages of instructions! Mr. Speaker, if the IRS has trouble understanding all the rules, subrules and instructions that go along with filing taxes, we cannot expect the American public to accomplish this without havoc and hassle.

This complicated system has made it extraordinarily difficult for people to fill out their tax forms, often resulting in the costly process of going to an accountant to file. That means they must pay more money just to find out how much more money they owe in taxes! Tax simplification would ease the paperwork burden for average taxpayers while reducing the government's cost of administering and collecting taxes.

Mr. Speaker, Washington created this problem and it is time Washington corrects it. I rise in strong support of H.R. 3097. We must end the IRS and its abominable tax code now.

GOOD ADVICE ON NORTH KOREA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. HAMILTON. Mr. Speaker, managing our relations with North Korea is one of the toughest challenges confronting American diplomats today.

Until a few years ago, North Korea seemed determined to move forward with a clandestine nuclear weapons program. In October 1994, the Clinton administration negotiated a landmark agreement with North Korea that has frozen North Korea's weapons program and holds out the promise of eliminating this threat to regional security and to our global nonproliferation goals.

A few days ago, the Los Angeles Times published an article written by James Laney, who was the U.S. Ambassador to South Korea until last year, and Jason Shaplen, an expert on North Korea, which lays out other steps the United States might take to manage our relationship with North Korea.

Given the importance of this issue, I insert this article for printing in the CONGRESSIONAL RECORD so that Members might have an opportunity to read the advice offered by two of our country's foremost Korean experts.

ENGAGING PYONGYANG IS ROUTE TO STABILITY—KOREA: THE U.S. NEEDS TO REASSURE THE NORTH THAT IT ISN'T SEEKING ITS DEMISE AND TO INCREASE CONTACTS

(By James Laney and Jason T. Shaplen)

South Korean president Kim Dae Jung's visit to the U.S. has put the focus on how to manage an increasingly desperate North Korea. Since assuming office in February, Kim has indicated that he intends to break the Cold War mentality that has stymied progress on the Korean peninsula for the past 45 years and implement a bold new policy toward the North—a policy based on engagement. The U.S. should support his initiative and take steps of its own to promote engagement that moves the peninsula, home to 37,000 U.S. troops, toward greater stability. There are three ways the U.S. can do this.

Issue a statement that Washington does not seek the North's collapse. In his inaugural address, Kim stated that his government, which sits only 30 miles from the DMZ, neither seeks to absorb the North nor actively promote its collapse. Washington, 7,000 miles farther away, should do the same.

Kim's call for reconciliation was not a rash statement made for political effect. It was based on the reality that pursuing a policy of collapse is futile. Barring unforeseen events, neither Kim Jong IL, the North's reclusive leader, nor his regime is likely to disappear in the near future. Even if the situation in the North should change, neighboring China is likely to offer aid that ensures its survival.

Stating clearly that the U.S. does not actively seek the North's collapse (while also recognizing that there is no moral equivalency between the North and South) represents the most sensible approach toward promoting stability. Confronted with a positive statement of this nature, it would be more difficult for North Korea's military to assume an aggressive posture.

Greater engagement with the North. Issuing a statement that the U.S. does not seek the North's collapse will only bring meaningful change if it is followed with a series of initiatives that seek to promote greater engagement, particularly in the economic arena.

To this end, the U.S., on a case-by-case basis, should lift economic sanctions imposed on North Korea as a result of the Trading With the Enemy Act. Allowing investment will force the North to learn more about our economic system and its benefits. One requirement that could be placed on lifting sanctions is that investment in the North must be in the form of U.S.-South Korean joint ventures.

The case for lifting sanctions has some strong proponents. Since his election, Kim Dae Jung has boldly increased the amount and type of investments South Korean firms can make in the North and has suggested that Washington lift sanctions.

Support for existing initiatives. Policy toward North Korea in the pre-Kim Dae Jung era was not without success. Four-party peace talks to replace the truce that stopped the Korean War with a formal peace treaty began last year. The talks include North and South Korea, the U.S. and China. shortly after these talks began, Pyongyang and Seoul resumed direct, bilateral dialogue in Beijing.

Similarly, the Korean Peninsula Energy Development Organization has been a success. Founded by the U.S., South Korea and Japan to implement portions of the landmark 1994 U.S.-North Korean Agreed Framework (in which Pyongyang agreed to scrap its suspect nuclear program in exchange for two proliferation-resistant nuclear reactors), KEDO has formed a professional relationship with the North. Working on the ground in North Korea and across the table from in New York, KEDO and North Korea have signed scores of internationally binding agreements that have allowed hundreds of South Koreans to travel to the North for the nuclear project. KEDO's prime contractor for the nuclear project. KEDO's prime contractor for the project is a South Korean firm. This means that at the height of construction, thousands of South Koreans will work side by side with thousands of North Koreans, building not only safer nuclear reactors, but greater understanding and, it is hoped, mutual confidence.

These and other initiatives signal an acknowledgment of necessity, if not desire by the North to engage. As such, they deserve the continued political and, in the case of KEDO, financial support of the administration and Congress.

Managing North Korea is a very difficult task. The situation remains precarious and deterrence must remain the foundation of the U.S.-South Korean approach to the North. That said, the combination of Pyongyang's increasing desperation and Kim Dae Jung's refreshing vision presents an opportunity that Washington and Seoul must not let pass.

H.R. 1151 AND CREDIT UNION CHARTER CONVERSIONS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. LAFALCE. Mr. Speaker, this body acted swiftly and decisively to assure the availability of financial services for all Americans when it passed, by an 411–8 vote, H.R. 1151, the Credit Union Membership Access Act. This legislation preserves the right of millions of Americans to retain their membership in credit unions and to continue to benefit from credit union services. I am pleased to have been one of the authors of this important legislation.

In developing this bill, the Banking Committee went to great lengths to achieve consensus legislation that would protect consumers' choice of financial services, ensure proper regulatory supervision of credit unions and strengthen credit unions' long-standing commitment to serving all segments in their communities. As passed by the House, H.R. 1151 accomplishes all of these goals. However, the bill was recently amended during consideration by the Senate Banking Committee and now includes new provisions that are of great concern to me and demand the careful scrutiny of the House.

As passed by the House, Section 202 of H.R. 1151 requires the National Credit Union Administration (NCUA) to review its rules and regulations that govern the conversion of federal credit unions to mutual thrift institution charters. The intent is to assure that these rules do not permit unfair conversions and require objective disclosure of all relevant facts about any possible conversion to credit union members. However, the Senate Banking version of H.R. 1151 would arbitrarily and drastically revise NCUA's conversion rules. If enacted, the Senate bill changes would permit credit union conversions under rules that are far less stringent than the conversion regulations for any other type of financial institution. That would be absolutely unacceptable.

Under current NCUA regulations, if a credit union—as a member-owned financial cooperative—wishes to convert to a thrift charter, it must first obtain the approval of a majority of the credit union's members. This majority vote requirement is necessary to protect the interests of credit union members, but it is not so difficult as to pose a barrier to conversions. It is noteworthy that practically every credit union that has sought to convert to a mutual thrift charter—with one exception—has met this majority vote requirement and has successfully converted. The regulations now in place have worked well.

However, the Senate Banking Committee version of Section 202 would significantly rewrite these conversion regulations, making the process substantially easier and greatly scaling back necessary regulatory oversight. If enacted into law this provision would authorize the conversion of insured credit unions to mutual savings institutions without the prior approval of any regulator, either the National Credit Union Administration or the Office of Thrift Supervision.

In addition, the Senate proposal would permit conversions with only an affirmative vote of a simple majority of the members of the credit union who are voting in an election. Let me emphasize that this is not a majority of the people or families who use and depend upon the credit union, only a simple majority of those who actually vote. This could permit a small minority of credit union officers and members to change the charter of a credit union with minimal knowledge and participation of the majority of members whose financial security would be drastically affected. This may or may not be likely. But under these eased conversion standards, it certainly is very possible, and wrong.

An example of how stronger conversion criteria can work both to protect the interests of members while permitting change to meet market conditions can be found right outside my Congressional district in Western New York. Eastman Savings and Loan Association of Rochester, New York, was a New York chartered mutual savings and loan association that desired to convert to a credit union. ESL's own by-laws and the New York State banking laws impose a number of strict conversion requirements, both in terms of the number of eligible votes that had to be cast and the size of the majority required for approval. As a result, ESL had to meet one of two possible tests for conversion: 66.7% of the total possible votes had to be favorable or 75% of all votes cast

had to be favorable. ESL successfully made the conversion with an affirmative vote of 98.7% of votes cast. ESL's directors attribute the huge success of this conversion vote to the added preparation and articulation of the purpose and plan for conversion that was required to meet this higher approval standard.

If the House concurs in the Senate proposals to ease current conversion requirements for credit unions I believe we will be inviting abuse. Credit unions are non-profit institutions that are chartered to serve a public purpose. This purpose and ownership structures should not be changed without significant involvement of both federal regulators and the majority of affected members. Any standard for a credit union's conversion to another type of financial institution must continue to require, at a minimum, that a majority of the credit union's membership participate in a conversion vote and a majority of those voting approve the conversion and that the credit union regulator, NCUA, must continue to have authority over the conversion process. The public's interest and the interests of members and their families necessitate this minimal level of involvement by both regulators and credit union members.

TRIBUTE TO SHERIFF STEVE MAGARIAN

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Fresno County Sheriff Steve Magarian. Sheriff Magarian has been an inspirational role model to the law enforcement here in the 19th Congressional District.

As Chief Executive Officer for the County of Fresno Sheriff's Department, Sheriff Magarian leads, directs and manages a highly sophisticated, diversified and complex organization. Operating throughout a 6,000-square mile area, he holds responsibility for meeting the needs of residents throughout Fresno County, with an annual Department budget in excess of 560 million dollars and personnel of approximately 1,000.

In his vital role, Sheriff Magarian has earned the public's trust, confidence, and support. Through his hard work, he established the department's primary mission. It is a mission that upholds fairness, justice and responsiveness to public needs and feelings while enforcing the law and protecting life and property.

Sheriff Magarian's leadership has guided the efforts and demeanor of the Department to conform with the high standards expected by the public. In administering the Patrol, Detective, Jail and Administrative divisions, his underlying commitment is to maintain the integrity of the constitutional rights as established by the framers of our Constitution.

Sheriff Magarian graduated from California State University, Fresno in 1972. In 1974 he received his Masters Degree in Criminology with distinction.

Sheriff Magarian has worked hard in the law enforcement arena. He created and implemented a county-wide narcotic suppression program through acquisition of a $500,000 state grant. This grant has been increased to $900,000 and approved for its eight consecutive year. He also developed a highly successful Tactical Unit within the Patrol Division which targeted property crimes and arrested dozens of criminals. At a cost of only $35,000, this Unit successfully recovered several hundred thousand dollars in stolen property and returned property to its legal owners. As noted above these are just some of the contributions Mr. Magarian has accomplished.

Sheriff Magarian's 30-year career with Fresno County Sheriff's Department has been marked by significant law enforcement and management experience.

Mr. Speaker, I am honored to have Sheriff Magarian as a law enforcement in the 19th Congressional District. I congratulate him on his lifetime of accomplishments and ask my colleagues to join me in wishing him every success on his future endeavors.

RECOGNITION OF O.D. WYATT HIGH SCHOOL BOYS STATE TRACK TEAM

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FROST. Mr. Speaker, I rise today to bring to your attention the remarkable efforts and acclamations of the track team from the Chaparrals of O.D. Wyatt High School in Fort Worth, Texas. These fine young men not only won the University Interscholastic League state championships, but left all their fellow competitors behind. Headlining the team is senior sprinter Demario Wesley, who was individually honored by the Fort Worth Star Telegram as the male track athlete of the year. Mr. Wesley placed first in all three events he entered. Just one year after trying to run on an ankle with bone spurs, Wesley won the 100 meter dash in a time of 10.23 seconds, the 200 meter run in a time of 20.74 as well as anchoring the 4x100 meter relay. With Wesley taking the leading position, Wyatt won the state competition by a 26 point margin. Wyatt's most impressive accomplishment came in the 4x100 meter relay victory when Milton Wesley, Monte Clopton, Michael Franklin and Demario Wesley broke their own national record. I would like to recognize the extraordinary efforts of this exemplary team as well as their coach Lee Williams whose hard work has inspired his team to victory. These young men have not only set a standard for future Wyatt boys track teams, they have proven that next years stars are currently in our schools and in our homes. Mr. Speaker, let us join in congratulating O.D. Wyatt High School on their accomplishments at the state track championships.

PERSONAL EXPLANATION

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. SESSIONS. Mr. Speaker, on rollcall no. 243, I was inadvertently detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. ETHERIDGE. Mr. Speaker, due to a necessary visit to the doctor's office Thursday morning, I was absent from the chamber during rollcall votes 226, 227, and 228. Had I been present, I would have voted "no" on rollcall 226, "yes" on rollcall 227 and "no" on rollcall 228.

A BILL TO AMEND THE INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT OF 1992

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce legislation to amend the Indian Employment, Training and Related Services Demonstration Act of 1992. My legislation will provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance and to emphasize the need for job creation in Alaska native communities and on Indian reservations.

Since its enactment in 1992, the "477" program of the Indian Employment, Training and Related Services Demonstration Act, has become one of the few successful economic development programs in Indian country. This program was implemented to help tribes address severe problems in employment and poverty faced in their communities. It allows tribal governments to consolidate formula funded employment, training and related programs into one streamlined, efficient program, which enable tribes to reduce administrative time and costs, and increase services to their members. Alaska tribes have informed me that they have reported great savings in administering employment and training programs through consolidation of application and reporting requirements.

On October 9, 1997, Senator CAMPBELL introduced S. 1279 and on this same date, Senator MURKOWSKI introduced S. 1281, which proposed amendments to the "477" program, and included Alaska-specific provisions. On May 14, 1998, the Senate Committee on Indian Affairs held a committee oversight hearing to discuss the provisions of the program. S. 1279, as amended, incorporates several

provisions of S. 1281, and makes other technical corrections. The Senate Indian Affairs Committee held a mark-up of their two bills and favorably reported S. 1279 out of Committee.

My legislation is identical to S. 1279, as reported out of committee, and would at long last address the extreme unemployment in Alaska native communities and to provide young Alaska natives with both educational and job skills so they can fully participate and contribute to Alaska's economy. The bill I am introducing today will lead to further economic growth and more efficient use of Indian job training dollars. I urge my colleagues to support my bill

RECOGNIZING WHEELING AND ROLLING MEADOWS HIGH SCHOOLS' PARTICIPATION IN THE CAPITOL HILL ROBOTICS INVITATIONAL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. PORTER. Mr. Speaker, it is my great pleasure to rise today to recognize the students and teachers from Wheeling and Rolling Meadows High Schools in Illinois who have been selected to participate here today on Capitol Hill in the "Robotics Invitational." These students and teachers are part of a national robotics program that is supported by the FIRST Foundation—For Inspiration and Recognition of Science and Technology. This creative program engages young people in science and engineering through fun activities that have practical applications. Earlier this year, over 9,000 students, representing 200 teams participated in regional contests that led to finals at the Disney Epcot Center in Florida. Working with identical boxes of raw materials and credit for the purchase of additional supplies, these teams set out to design a robot that could play ball like Sammy Sosa. I am proud to say that the robot designed by the Wheeling and Rolling Meadow could play in the Majors and I am sure that they will do very well in today's competition.

Science and engineering is an extremely important component of a high school education. Excellence in these fields has helped to propel the United States to its leadership role in the world today. While the *Mars Pathfinder* was developed from slightly more than a small box of raw materials, the individuals who helped to accomplish this tremendous feat most likely had their interest sparked by engineering competitions similar to the one on Capitol Hill today.

Best of luck to Wheeling, Rolling Meadow and the other teams in today's competition and I hope that these young people will continue their education and even pursue careers in the exciting fields of science and engineering.

PRAISE FOR ENGINEERED SOLUTIONS, AND THE STUDENTS FROM THE STEVENS INSTITUTE OF TECHNOLOGY AND HOBOKEN HIGH SCHOOL

HON. STEVE R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. ROTHMAN. Mr. Speaker, today I rise to join my colleagues in paying tribute to the 200 high school teams across the country who participated in a robotics competition put on by FIRST (For Inspiration and Recognition of Science and Technology). I would especially like to recognize the team from Northern New Jersey comprised of Engineered Solutions from Ft. Lee, New Jersey, and high school students from the Stevens Institute of Technology and Hoboken High School.

This competition underscores the work of FIRST, a foundation which partners high school students with engineers from corporations and small businesses, scientists from NASA and the military, and mentors from world class universities. The unique FIRST competition allows students to get hands-on experience in developing cutting-edge design and manufacturing processes in an energetic, competitive environment. This program represents a unique method for getting students excited about science and technology.

I commend the excellent work done by the students on the Engineered Solutions/Stevens Institute of Technology/Hoboken High School team. And I wish the students from the other 200 teams across the country all the best.

IN HONOR OF THE HERNDON ROTARY CLUB'S CITIZEN OF THE YEAR

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. DAVIS of Virginia. Mr. Speaker, it gives me great pleasure to rise and pay tribute to Peggy Vetter, the thirty-third recipient of the Herndon Rotary Club's Citizen of the Year Award. For the past twenty-two years, she has devoted her time and effort to extensive volunteer and leadership activities throughout Herndon.

In 1976, shortly after moving to the area, Peggy founded the Herndon Observer newspaper. The Observer was one of the first newspapers in the growing area. While the newspaper was initially published just twice monthly, it allowed for the town and its citizens to communicate and gave everyone a voice in the community. Peggy sold the paper in 1990, but continues to report on Herndon government as well as its people and events.

Peggy's involvement in the community and its many facets did not stop there. While working at her paper she supported the community's youth by hiring high school students as correspondents and office helpers. In addition, she supported fund-raising efforts for youth sports, the Boy Scouts, and the Girl Scouts.

Her skills with community fundraisers led her to chair the Rotary Club's annual efforts on behalf of the Embry Rucker Shelter, which has collected thousands of dollars' worth of clothing and supplies for those temporarily homeless. She participated in a wide range of activities with the Rotary Club, from cleaning up Spring Branch to ringing bells for the Salvation Army to acting as a Herndon Festival Marshal.

On her own, she has volunteered at her children's schools, served for five years as a Cub Scout den mother, and helped found the American Women's Club in Kingston, Jamaica. In addition, she served on the Herndon Chamber of Commerce Board of Directors for many years. She was honored in 1996 as Woman of the Year by the Herndon Business and Professional Woman's Club.

Peggy lived in several places and traveled extensively before settling in Herndon. She was born in Valpariso, Indiana, went to high school in Niles, Michigan, and then attended St. Mary's College at Notre Dame. She started her career as a journalist during World War II, serving as a reporter and editor for the Niles Daily Star. Following her marriage to her husband Don, she served as an assistant society editor of the Lansing State Journal an a capital correspondent for the Detroit Free Press and Times.

Her husband's job with Pan Am Airlines led her and her three children to travel around the world to places such as Guam, Jamaica, Puerto Rico, Guatemala, Miami, before coming to the Washington, D.C. metropolitan area in 1974.

Mr. Speaker, I know that my colleagues join me in honoring and thanking Peggy Vetter for all of her hard work to improve the Herndon community. Her spirit and dedication to public service is truly outstanding, and we congratulate her for being named the Herndon Rotary Club's Citizen of the Year.

CONGRATULATIONS TO FALLON HEALTHCARE SYSTEM

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. McGOVERN. Mr. Speaker, today I rise to recognize twenty-one years of dedicated service and commitment to the health of thousands of patients across the state of Massachusetts. Fallon Healthcare System celebrates not only twenty-one years of operation, but also marks this event by the enrollment of their 200,000th member. I am proud to play a role in recognizing Fallon here today as they play a vital part in the economy of the region and are a critical provider of care to the community.

Fallon was founded in 1977 as the first Health Maintenance Organization (HMO) in Central Massachusetts and, after just two decades, was twice named one of the best HMOs in America by US News and World Report. This organization has also been recognized by Newsweek, The Wall Street Journal, and many other national and local advocacy groups, publications, and health care specialists.

Fallon has been a leader in the community with efforts to provide health care to citizens both inside and outside of their health plan. Their efforts to assist the elderly, the poor, children, and to reach out to the community are all signs of their commitment to the health of the citizens in Massachusetts.

Mr. Speaker, I ask my colleagues to join me in celebrating this important occasion in the history of Fallon Healthcare System.

THE 200TH ANNIVERSARY OF THE TOWNSHIP OF FAIRFIELD, ESSEX COUNTY, NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to congratulate the people of the Township of Fairfield, County of Essex, New Jersey as they commemorate the 200th anniversary of the incorporation of their community.

In the early years, shortly after Connecticut settlers founded Newark in 1666, a group moved out to the northwest and settled in what is now Fairfield. The settlers bought the land, known as Fairfield, from the Indians. In 1701, eight proprietors from England came together and formed the East Jersey Society and purchased a 13,500-acre tract of land from the top of the First Watchung Mountain to the Passaic River, which was patented Horseneck. They built their homes on high ground and fed their stock from hay cut in the Bit Piece and Little Piece Meadows. The New Jersey State Legislature created Caldwell Township. The boundaries were drawn from the county line to Mt. Pleasant Avenue, Livingston, and from the Passaic River to the top of the first Mountain. The twenty-eight mile township was named for Reverend James Caldwell, who was pastor of the Presbyterian Church where St. Aloysius R.C. Church, Caldwell now stands.

On April 8, 1799, the first town meeting was held and nine school districts were established. Also, at the meeting a $200 budget was voted to defray the expenses of the school districts. The Fairfield district's first school antedated the formation of Caldwell Township, a school that was built just before or immediately following the Revolutionary War. Classes were instructed in the Dutch language. In 1957, a new school was built at the intersection of Horseneck and Fairfield Roads. In 1892, the first town to break away from Caldwell Township in a dispute over road taxes was the Borough of Caldwell. This marked the beginning of a succession of towns including, Verona, North Caldwell, Essex Fells, West Caldwell, Roseland and Cedar Grove. This left Caldwell Township which is now Fairfield with an area of 10.4 square miles. By the end of the century, Fairfield would be faced with more seceding territories.

With the invention of the automobile came the necessity for a speed limit in Fairfield. On December 4, 1899, an ordinance was passed designating a speed limit of 8 miles per hour. A couple of years later, the speed limit was increased to 10 miles per hour (five miles while turning corners) for any horse, mule or vehicle. The ordinance also indicated that any wheeled vehicle must have a bell or gong of sufficient power to give warning of an approach. In 1919, it came to the attention of the Township committees that the Passaic River had become a popular recreational area and the committee found it necessary to make it unlawful to bathe in the waters of Caldwell Township without being clothed. Other problems involving the river had become more serious. The lowlands have always been subjected to flooding. In fact, the Township's flood control program dates back to 1844.

The 1930's saw Fairfield begin to evolve from a farm community to a more suburban community. As the population continued to increase over the 1,000 person mark, an organized police department was established in 1937. The year 1940 saw industrial development move into Fairfield with the construction of the Curtis Wright airplane factory. In the 1960's a campaign for a municipal name change was underfoot. As the community's population continued to boom it was apparent that the Township was in need of its own postal facility. However, the Township of Caldwell found itself unable to obtain a facility under that name because of the confusion with Caldwell Borough, the post office through which the community was served. As a consequence, Mayor Stepehen Szabo suggested that the municipality again become known as Fairfield. The idea was quickly endorsed by other local officials and from most of the community.

Mr. Speaker, my fellow colleagues, please join me in congratulating the Township of Fairfield and its citizens as they celebrate this milestone.

SPORTSMEN'S MEMORIAL ACT OF 1998

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. DUNCAN. Mr. Speaker, today, I introduced the Sportsmen's Memorial Act of 1998. This legislation will honor this Nation's sportsmen by initiating a process through which a memorial will be established in, or around, the District of Columbia.

I think everyone will agree that the conservation of the Nation's fish and wildlife resources is of critical importance to all of our citizens.

Many government agencies have been created to manage our natural resources. In addition, many national, state and local associations have been established to support conservation efforts.

However, standing at the forefront of these collective efforts are sportsmen, whose financial support to the Nation's fish and wildlife conservation efforts number in the tens of billions of dollars.

Sportsmen have been the financial and philosophical backbone of successful fish and wildlife management throughout the 20th century.

The support of these individuals has allowed fish and wildlife managers to protect and restore millions of acres of habitat, engage in quality research on a multitude of fish and wildlife species, and actively manage our natural resources on a day-to-day basis.

In addition, sportsmen, through their purchase of state hunting and fishing licenses, stamps, and tags, have contributed billions of dollars directly to wildlife agencies.

This support has allowed fish and wildlife managers to achieve some of the greatest success stories.

For all of these reasons, I believe it is appropriate that we honor these men and women with a memorial in the National Capital Region.

I encourage all of my colleagues to join me in honoring the sportsmen of this Country by cosponsoring the Sportsmen Memorial Act of 1998.

JOINT HEARING—SENATE LABOR AND HUMAN RESOURCES AND HOUSE COMMERCE COMMITTEE; ORGAN DONATION ALLOCATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. STARK. Mr. Speaker, I would like to commend Chairmen JEFFORDS and BLILEY for conducting hearings on the problem of organ allocation. As they well known, organs have not been allocated in a fair way to benefit patients in the past and we are in a position now to take a stand for patients and for fairness.

This is a simple issue of fairness and quality. If you are a patient in need of a transplant and you live in Tennessee, the average time you spend on the waiting list is about 21 days. If you live in my part of the country, the San Francisco Bay Area, the average waiting time for that same patient is over 300 days.

In every part of the country, the Cleveland Plain Dealer reports that minority candidates wait longer than their white counterparts for available organs.

Is this fair? When my good friend Congressman MOAKLEY was diagnosed with hepatitis B and was in need for a liver transplant, his doctors told him to leave Boston and move to Virginia to increase his chances of obtaining a liver.

Fairness is half of this fight. Quality is the other. There is a lot of money to be made in organ transplants. Too many centers have been opened to increase the prestige and the profits of a local hospital—and not because they do a good job. In fact, in general the lower volume small transplant centers have poorer outcomes than the high volume transplant centers. The fact is, having a transplant center has become the equivalent of health pork. Many of these centers are like the excess projects in the recently-passed highway bill: centers without a justification. But unlike highway pork, these centers often end up killing patients because they do not do as good a job as the high volume centers. I really think it is immoral for centers who have a lower success rate than the high volume centers to

be fighting the Department's regulation. Their actions are a disgrace to the Hippocractic Oath.

The proliferation of poor quality transplant centers not only wastes lives, it wastes money. The United States has 289 hospitals doing transplants—and that is an enormous commitment of capital. I have read that a hospital has to invest about $10 million to be able to do heart transplants.

These proliferating costs are part of what drives health inflation in the United Sates and part of what places such huge budget pressures on Medicare. Concentrating transplants in fewer, high-quality, life-saving centers would allow us to save hundreds of millions of dollars in the years to come. The Department's regulation gives us the potential to focus on Centers of Excellence where we not only save lives, but can obtain economies of scale necessary to preserve the Medicare program.

If my colleagues are serious about putting patients first, what is so onerous about a system that proposes to base transplant decisions on common medical criteria on a medical need list—not geography, not income, not even levels of insurance coverage—just pure professional medical opinion and medical need.

This hearing is about putting patients first—not putting transplant bureaucracies first. I can think of no better way to put patients first than to make the system fair for all. I urge the Committees to support the Department's regulations.

A BILL TO AMEND THE INDIAN HEALTH CARE IMPROVEMENT ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce legislation with my distinguished colleague, Mr. DALE KILDEE of Michigan, to amend the Indian Health Care Improvement Act (IHCIA). In 1988, pursuant to Section 405 of the IHCIA, the Indian Health Service (IHS) was directed to select up to four tribally-operated IHS hospitals to participate in a demonstration program to test methods for the direct billing for and receipt of payment for health services provided to Medicare and Medicaid eligible patients. This was established to determine whether collections would be increased through direct involvement of tribal health care providers versus the current practice which required billings and collections be routed through the IHS.

In 1996, Congress extended this demonstration program until 1998. This extension allowed Congress additional time with which to consider whether to permanently authorize the collection program. The law also required the IHS to submit a report to Congress on the demonstration program on September 30, 1996, the same day the program was originally to expire. The report was to evaluate whether the objectives were fulfilled and whether direct billing should be allowed for other tribal providers who operate an IHS facility. This report is still undergoing Departmental review, however, it is our understanding that the Secretary of Health and Human Services and the Indian Health Service are very pleased with the success of the demonstration program.

All four participants have reported a dramatic increase of collections for Medicare and Medicaid services, which provided additional revenues for IHS programs at these facilities. In addition, there has been a significant reduction in the turn-around time between billing and receipt of payment and an increase in efficiency by being able to track their own billings and collections in order to act quickly to resolve questions and problems.

On behalf of my constituents, the Bristol Bay Area Health Corporation and the South East Area Regional Health Corporation, I am introducing this legislation to provide permanent status for the demonstration program established by Section 405 of the Indian Health Care Improvement Act, to provide a "grandfather" clause for the current four demonstration participants to enable them to continue their programs without interruption, and to expand eligibility for the program to tribes or tribal organizations who operated or are served by an IHS hospital or clinic.

ALASKA NATIVE AND AMERICAN INDIAN DIRECT REIMBURSEMENT ACT OF 1998

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. KILDEE. Mr. Speaker, I rise to urge my colleagues to support legislation I am introducing today with Resources Committee Chairman YOUNG that would permanently authorize and expand the Medicare and Medicaid direct collections demonstration program under section 405 of the Indian Health Care Improvement Act.

The Medicare and Medicaid direct collections demonstration program currently allows four tribal health care operators who operate an entire Indian Health Service hospital or clinic to bill directly and collect Medicare and Medicaid reimbursements instead of having to deal with the bureaucracy at the Indian Health Service. The current participants are the Bristol Bay Health Corporation and the Southeast Regional Health Corporation in Alaska, the Mississippi Choctaw Health Center, and the Choctaw Tribe of Oklahoma.

The demonstration program has been fully tested over the past decade. All of the participants—and the Department of Health and Human Services—report that the program is a great success. In fact, the program has: Significantly reduced the turnaround time between billing and the receipt of payment for Medicare and Medicaid services; increased the administrative efficiency of the participating facilities by empowering them to track their own Medicare and Medicaid billings and collections; and improved collections for Medicare and Medicaid services, which in turn have provided badly-needed revenues for Indian and Alaska Native health care.

In 1996, when the demonstration program was about to expire, Congress extended it through fiscal year 1998. This extension has allowed the participants to continue their direct billing and collection efforts and has given Congress additional time to consider whether to authorize the program permanently.

Because the demonstration program is again set to expire on September 30, Congress must act quickly to recognize the benefits of the demonstration program by enacting legislation that simply would permanently authorize it and expand it to other eligible tribal participants.

The Alaska Native and American Indian Direct Reimbursement Act of 1998 is an identical companion bill to legislation introduced in the Senate on April 29 and sponsored by Senators MURKOWSKI, LOTT, BAUCUS, and INHOFE. The Indian Health Service and the Health Care Financing Administration support it.

I hope that my colleagues also will support this important legislation and that the Resources Committee and this House will favorably consider it as soon as possible so this successful program can continue to increase the administrative efficiency of participating Alaska native and American Indian health care facilities.

HONORING AUDIOVOX AND TOSHIBA: A VERY SPECIAL RELATIONSHIP

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. ACKERMAN. Mr. Speaker, I rise today to honor a very special and unique relationship between the well-known Japanese company, Toshiba, and a great American company based on Long Island, Audiovox Corporation. For the last 14 years they have shared an incredible partnership in cellular phone manufacturing and distribution, which has led to this day, during which we are marking the 7 millionth cellular phone that has derived from this very special relationship. In fact, I have taken the liberty of proclaiming this day, "Audiovox-Toshiba Day" in the 5th District of New York.

At a ceremony today at Audiovox's headquarters in the town of Happauge in Suffolk County on Long Island, Toshiba will be presenting a gold phone to mark this remarkable milestone. Mr. Takao Kishida, General Manager of the Mobile Communications Division of Toshiba and Mr. Kunio Horiouchi, Department Manager of the division, will be presenting the phone on behalf of Pizo Nishimuro, President of Toshiba. Accepting this unique award on behalf of Audiovox will be two very good close friends of mine, Phillip Christopher, President and CEO of Audiovox Communications Corporation (ACC), and John J. Shalam, Chairman of Audiovox.

Mr. Speaker, as I mentioned before, the nature of the relationship has been Toshiba manufacturing the phones and Audiovox marketing them in North America. I'm sure my colleagues realize that there are countless numbers of companies in the world who manufacture cellular phones. However, over half of the phones that Audiovox has sold over the

course of almost 15 years have come from Toshiba's production line, and, Audiovox officials do not hesitate for one minute to say that Toshiba is the best—based on their quality, their integrity and character, and their loyalty to this special relationship. That's why I think it's so important to highlight this special relationship as an example of what can come of the very special bond that has existed over the past 50 years between the United States and Japan. Regardless of the differences we may encounter in our general trade relationship, I wanted to take a moment to recognize the unique partnership between Toshiba and Audiovox, and the remarkable achievements that they have reached together. This is an exemplary union that should be held up to the highest regard, to demonstrate to others the opportunities that exist between our countries and to encourage other companies to engage in similar ventures.

Trade is so very much a critical component of U.S. policy, particularly in this day and age as we become more of a global village. Mr. Speaker and my colleagues, please join with me today as we honor two truly energetic and viable companies who have chosen to engage in a partnership that has only served to complement each companies' strengths as well as continuing to highlight the special bond between the U.S. and Japan.

A TRIBUTE TO MICHAEL J. KANE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, writing of Sir Thomas More, Robert Whittinton observed that he was "a man for all seasons." As I pay tribute today to my good friend, Michael Kane, on the occasion of his retirement from the Monson Public Schools system, the same sentiment comes to mind.

Though words cannot fairly describe Mike Kane's philanthropic approach to life, I would like to detail some of the ways in which he has put his talents to use to serve others. Mike Kane began his career as a Science and Mathematics Teacher at South Main Street School in Monson. He went on to be Vice Principal of Monson Junior-Senior High School and later Principal of that same school. Totaling 37 years, Mike's career was built around a most noble pursuit—the education of our youth.

While committed to instilling the importance of academic pursuits in the young minds that he has reached, Mike Kane has also consistently stressed in his teaching and by example the unique role that athletic challenges play in one's development. Mike's years as high school Baseball and Girl's Basketball coach as well as his involvement and leadership with the Massachusetts Interscholastic Athletic Association Basketball Tournament Committee and Sectional Seeding Committee for more than 25 years epitomizes this deeply held belief.

In addition to his dedication to these endeavors, Mike Kane has also been seriously involved with the National Foundation of the March of Dimes. In both the Monson and Pioneer Valley chapters of this organization, Mike has served as Chairman during his tenure of membership and has also been on the Pioneer Valley's Board of Directors. Donating his time to such a worthy cause offers further testament to the quality of Mike Kane's character.

An active member of the Massachusetts Teachers' Association and the National Education Association, Mike Kane has brought to the forefront of state and national organizations the same innovative ideas that he has shared with students, teachers, and administrators in Monson for 37 years.

The hats worn by Mike Kane—Teacher, Principal, Coach, Volunteer, and Craftsman—are those of one singular man committed to education, to athletics, to service, and to excellence. I am proud not only to honor and to recognize his achievements today, but to know him through his good work.

CONDEMNING THE BRUTAL KILLING OF MR. JAMES BYRD, JR.

SPEECH OF

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1998

Mrs. MEEK of Florida. Mr. Speaker, I am pleased to join with my colleagues in the Congressional Black Caucus and Americans of goodwill throughout the country tonight in condemning the brutal, heinous murder of James Byrd, Jr. in Jasper, Texas on June 6, by a gang of lawless thugs.

Violence and hatred in our society hurt us all.

Yet as we gather today to denounce this brutal murder, I am hopeful that in Mr. Byrd's memory that we as a nation will go forth and affirm that we are still committed to justice, and to equality in our country.

We've seen too much hatred, too much killing. We must let the death of James Byrd, Jr. make us better, not bitter.

I am hopeful that just as the citizens of Jasper, both black and white, have come together in a remarkable fashion and chosen redemption over retaliation, that this tragic event will serve as a catalyst to bring all America together truly as one America.

THE IMPORTED FOOD SAFETY ACT OF 1998

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. DINGELL. Mr. Speaker, today I am introducing the Imported Food Safety Act of 1998 which will give the Food and Drug Administration (FDA) new authority and much needed resources to protect American consumers from unsafe imported food. I am very pleased to have 15 of my Democratic colleagues on the Commerce Committee joining me as original cosponsors in introducing this important legislation. It is my sincere hope that many more Members, including my Republican colleagues, will soon join us in responding to consumer concerns over the safety of the food we eat.

U.S. food safety standards are among the highest in the world. In spite of this fact, millions of Americans each year are unknowing victims of illness attributable to food-borne bacteria, viruses, parasites, and pesticides. According to a recent General Accounting Office (GAO) report, as many as 33 million Americans each year become ill from the foods they eat. We also know that many cases of food-borne illness are not reported. GAO, therefore, estimates the total number of food-borne illnesses to exceed 81 million each year. Among these cases, more than 9,100 result in death. The U.S. Department of Agriculture's Economic Research Service estimates "the costs for medical treatment and productivity losses associated with these illnesses and deaths range from $6.6 billion to $37.1 billion."

Increased media attention on food-borne illness outbreaks has turned, once unfamiliar scientific names, into household words. Recently, an outbreak of food poisoning from salmonella in cereal was reported in 11 states. E. Coli 0157 has been found in apple juice and hamburger, cyclospora in raspberries, Listeria in ice cream, Cryptosporidium in water, and viral Hepatitis A in frozen strawberries served in a school lunch program.

The population of our country is growing and changing. Exposure to food-borne pathogens is particularly dangerous for the most vulnerable members of the public, such as children, pregnant women, the elderly, those with HIV/AIDS, cancer and other persons whose immune systems are compromised.

The number of food-borne illness outbreaks has increased in recent years, and so has the volume of foreign food imports coming into our country. In its recent report, GAO said that the Federal government cannot ensure that imported foods are safe. The FDA, itself has acknowledged that it is "in danger of being overwhelmed by the volume of products reaching U.S. ports."

The volume of imported food has doubled over the last five years, while the frequency of FDA inspections has declined sharply during this same period of time. More than 38 percent of the fresh fruit and more than 12 percent of the fresh vegetables that Americans now consume each year are imported.

Most Americans would be alarmed to learn that just a small fraction, less than two per cent, of the 2.7 million food entries coming into this country are ever inspected or tested by the FDA. Even fewer, only 0.2 percent of food entries, are tested for microbiological contamination.

In a recent letter, however, FDA said that it "has no assignments for monitoring imported fresh fruits and vegetables for presence of pathogenic microorganisms." In fiscal year 1997, all of the 251 microbiological samples FDA collected that year, were in response to food-borne illness outbreaks. None were for preventive detection.

The outrageous and wholly intolerable conclusion one must draw is that American consumers are being used as guinea pigs.

FDA has stated that there is a "critical need for rapid, accurate methods to detect, identify

and quantify pathogens. . . ." The testing methods currently being used at FDA can take up to two weeks to isolate and identify pathogens in food samples. What is needed are quicker detection methods, or "real time tests" that yield results in approximately 60 minutes, to identify pathogenic contamination, especially at busy ports of entry. But currently, FDA is not funding research to develop these tests, nor do they have plans to develop these tests in the future.

It is clear that FDA is lacking the necessary resources to regulate the global food marketplace. Unlike the U.S. Department of Agriculture (USDA), FDA does not have the authority to deny product entry at the border or to permit imports only from agency approved suppliers in foreign countries. The GAO reported that FDA's procedures for ensuring that unsafe imported foods do not reach consumers are vulnerable to abuse by unscrupulous importers. According to GAO, some importers ignore FDA's orders to return, to destroy or to re-export their shipments. By the time FDA decides to inspect shipments, in some cases, the importers have already marketed the goods.

In response to this crisis, the President has said FDA needs increased resources, more authority, and improved research and technology. The Imported Food Safety Act of 1998 addresses each of these points.

This legislation provides additional resources in the form of a modest user fee on imported foods to increase the number of FDA inspectors at ports of entry in the U.S. Proceeds from the user fee would also be used for a "Manhattan Project" to develop "real time" tests (results within 60 minutes) to detect E. Coli, salmonella, and other microbial and pesticide contaminants in imported food. Without tests that produce quick results, there is no way FDA inspectors can detect pathogens in imported food before it is distributed to consumers. Finally, the legislation gives FDA authority, comparable to that of the USDA with respect to imported poultry and meat, to stop unsafe food at the border and to assure that is ultimate disposition is not America's dinner table.

The Imported Food Safety Act of 1998 focuses on these three key areas: authority; research; and resources.

INCREASED REGULATORY AUTHORITY FOR FDA

The recent GAO study of the imported food safety program points out that: "In some cases, when the Food and Drug Administration decides to inspect shipments, the importers have already marketed the goods." "[W]hen the [FDA] finds contamination and calls for importers to return shipments to the Customs Service for destruction or reexport, importers ignore this requirement or substitute other goods for the original shipment. Such cases of noncompliance seldom result in a significant penalty."

FDA currently lacks the authority to impose criminal penalties on importers that circumvent FDA's import procedures. FDA reliance on the importers' bond agreement with Customs, has left the agency without an adequate economic deterrent to the distribution of adulterated products. Current penalties, namely the forfeiture of a bond, are inadequate and are regarded as a cost of doing business. Under the current bond system, GAO reports that "even if the maximum damages had been collected, the importer would have still made a profit on the sale of the shipment." This bill would subject such behavior to tough penalties that will be a strong deterrent to circumventing the current regulatory system. These penalties are the same as those used by USDA in their imported meat inspection program.

The bill would also prohibit an importer from commercially distributing foreign-produced food, without FDA approval. An importer whose food is refused entry by FDA would be responsible for the disposition of re-exportation of such food products. Failing to do so would make the importer subject to penalties under the Federal Food Drug and Cosmetic Act.

DEVELOPMENT OF "REAL-TIME" LABORATORY METHODS TO TEST FOR PATHOGENS TO BE USED IN BORDER INSPECTIONS

FDA wrote in a January 16, 1998 letter that there is a "critical need for rapid, accurate methods to detect, identify and quantify pathogens in a wide variety of environments . . ."

The methods for detecting a wide range of bacterial, viral, and parasitic pathogens in or on fresh fruits and vegetables are limited . . ."

This bill would provide additional funds for research and development on test methods to detect E. coli, salmonella and other disease-causing microorganisms and pesticide residues in imported food, as it enters the U.S. and before it is distributed to the public. The bill requires FDA to devote resources to developing such tests within three years of the date of enactment. This funding will be in addition to FDA appropriated funds and will be collected through a modest, $20 per entry, user fee on imported food.

USER FEE FOR IMPORTED FOOD

This legislation also provides for a modest user fee to be paid to the FDA for each entry of foreign food imported into the U.S. It is clear that the current Majority in Congress is not prepared to appropriate funds needed to protect Americans from unsafe food. Funds for the President's food safety initiative were recently zeroed out at the Senate Appropriations Committee and in the House, the President's initiative received only a token funding level.

A user fee on imported food, like the user fee in the Imported Food Safety Act, would ensure that FDA has much needed resources to protect American consumers from unsafe imported food. The proceeds from this user fee would be used to fund much needed research efforts on "real time" test methods for detecting pathogenic contaminants in food and to fund increased FDA efforts to inspect foreign fresh and packaged foods coming into the country.

The U.S. imports approximately 2.7 million entries of food each year that are valued at approximately $36 billion. The bill provides that a per entry fee of no more than $20 would be imposed on food imports. This fee is not based on the value of a shipment of imported food. Instead, it is an amount based on the cost of processing and approving food imports, including the cost of sampling and testing.

COUNTRY-OF-ORIGIN LABELING

Finally, this bill requires country-of-origin labeling of all imported foods. Restaurants and other prepared-food service establishments are exempted from complying with the country-of-origin labeling requirement. We often forget that the toughest, and many times the best, regulators are America's consumers. This bill gives consumers information that allows them to make informed choices with respect to the conditions under which the food they buy is produced.

Maintaining public confidence in the safety of the food supply is of paramount importance. People must be confident that the food they purchase and provide for themselves and their families is safe. Country-of-origin labeling will empower consumers, giving them greater information on which to base their food purchasing decisions. This is especially important in view of the now all too frequent outbreaks of food-borne illness.

We need to focus our efforts on eradicating food-borne illness in this country. As our consumption of imported food continues to grow, we must find ways of ensuring that foreign produced food meets our health and safety standards. It simply is no longer acceptable for government to blame its failures on the increased volume of imports or the fact that detection methods are not available.

FDA must be given the authority, the resources, and the responsibility to ensure that foreign produced foods get to the consumers of this country, if, and only if, they meet U.S. health and safety standards.

The Imported Food Safety Act of 1998 would give FDA, for the first time, the authority, resources, and responsibility it needs to tackle this problem in a meaningful way. This is good public health policy, and the American people deserve no less. I urge my colleagues to support this important legislation.

JUSTICE DEPARTMENT AGREES TO REVIEW ACCUSATIONS AGAINST INDEPENDENT COUNSEL STARR

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. CONYERS. Mr. Speaker, Attorney General Janet Reno's announcement today that allegations of improper conduct by Independent Counsel Ken Starr have been referred to the Justice Department's Office of Professional Responsibility is an appropriate first step. Over the past few days, serious questions concerning the behavior of Mr. Starr and his staff have been raised. On the one hand, a respected journalist, Steven Brill, says that Mr. Starr admitted leaking grand jury information. For his part, Mr. Starr does not deny meeting with reporters on an "off the record basis." Instead, he says that the information he provided during those meetings was not covered by Rule 6(e) of the Federal Rules of Criminal Procedure.

To resolve this dispute, any investigation must determine two important things. First, exactly what information did Mr. Starr give to reporters during his "off the record" meetings? Second, what are the legal rules that govern what an Independent Counsel can say to a reporter? In his recent letter of complaint to Mr.

Brill, the Independent Counsel seems to take the position that Rule 6(e) should be interpreted very narrowly to apply only to disclosures of events or testimony that actually occur in the grand jury room. The law in the District of Columbia Circuit does not support that view.

In its opinion in the Dow Jones case, which was decided in May of this year, the D.C. Circuit wrote that Rule 6(e) reaches "not only what has occurred and what is occurring, but also what is likely to occur. Encompassed within the rule of secrecy are the identities of witnesses or jurors, the substance of testimony as well as actual transcripts, the strategy or direction of the investigation, the deliberations of questions of jurors, and the like."

The Dow Jones case makes clear that Rule 6(e) applies much more broadly than the Independent Counsel has argued in his public statements over the past few days. A review by the Justice Department's Office of Professional Responsibility is a good first step toward resolving the important factual and legal issues that are disputed in this case.

WELCOMING SECRETARY OF STATE MADELEINE K. ALBRIGHT TO MINNESOTA

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. VENTO. Mr. Speaker, I am honored and privileged to submit to the RECORD Secretary of State Madeleine K. Albright's insightful and promising commencement address to the University of Minnesota College of Liberal Arts on Sunday, June 14, 1998 for Members review. I hope my colleagues will examine its message: America must lead. We must lead in the pursuit of global freedom and democracy, enforcing greater human rights, supporting the nuclear test ban agreement, limiting the proliferation of nuclear weapons, striving to improve the working conditions around the world and protecting earth's natural resources. This address was a powerful statement and was very well received by the graduates and the general public.

UNIVERSITY OF MINNESOTA COLLEGE OF LIBERAL ARTS SPRING COMMENCEMENT ADDRESS, JUNE 14, 1998

(By Secretary of State Madeleine K. Albright)

Thank you, Vice-President Mondale, for that wonderful introduction. It's great to see you again and thank you for welcoming me to your state.

Regents of the University, President Yudof, Dean Rosenstone, honorary degree recipient Estes, Teacher of the Year Professor Sugnet, U.S. Representative Bruce Vento, Members of the class of 1998 and your families, faculty, and friends, I am delighted to be here and honored that you asked me to share this day with you.

To the parents here this morning, let me say that I understand how you feel. I had three daughters graduate from college and each time the emotions were the same: intense pride—and immense relief.

To the Class of '98, I add my heartfelt congratulations to those of Fritz Mondale. Today is a day to celebrate; it is the payoff for all the late nights in the library and the long hours studying. Graduation is one of the five great milestones in life. The others are birth, marriage, death and the day you finally pay off your student loan.

Now, at last, only one thing still stands between you and your degree. And that is my speech. The bad news is that I am a former professor. Even my soundbites are fifty minutes long.

The good news is that I will not inform you that you had more fun in college than you will ever have again, for that might depress you. I will not place the weight of the world upon your shoulders, for that might intimidate you. And I will not lecture you about your social habits, for that will always be your parents' job.

Instead, I want to discuss with you some of the choices which we as a society and as a nation face. For nations are like people. Each must choose whether to live their lives selfishly and complacently or to act with courage and faith.

We are privileged to reside in a country that, through most of this century, has chosen the latter course, to lead. So that today, we are helping to shape events in every region on every continent in every corner of the world.

We exercise this leadership not out of sentiment, but out of necessity. For we Americans want to live, and we want our children to live, in peace, prosperity and freedom. But as the new century draws near, we cannot guarantee these blessings for ourselves if others do not have them as well.

Earlier this spring, at the Coast Guard Academy and the University of Maryland, I spoke of some of the specific steps we are taking to advance these goals: to reinvigorate our alliances, for example, and to build a more open and fair system of trade. This is especially important in states like Minnesota, where companies such as Cargill, General Mills, Honeywell, Pillsbury and 3M have made you export leaders.

But today, I want to address a theme that ties the broad goals of our foreign policy together. For I have found as Secretary of State that now, more than ever, the great dividing line in the world is not between East and West, North and South or rich and poor; it is between those paralyzed by the memories and habits of the past, and those energized by prospects for the future.

That is not rhetoric; it is reality.

Consider, for example, nuclear weapons. The recent decisions by India and Pakistan to conduct nuclear tests reflect old thinking about national greatness, and old fears stemming from a boundary dispute that goes back more than five decades.

The Indian Prime Minister justified his action by saying that his country "has the sanction of her own past glory." But if that rationale made any sense, which it does not, other inheritors of past glory, from the modern day Egyptians and Babylonians to the Incas and Aztecs, would be out setting off atomic blasts.

Our message to the leaders of South Asia and nations everywhere is that if you want the world's respect—don't set off nuclear bombs; educate your people.

If you want the world's understanding; don't get into an arms race—use technology to prosper in the global economy.

And if you want the world's help; don't talk about how much you can destroy—show us how much freedom and opportunity and tolerance and respect for human dignity you can create. That is the badge of greatness. And in that quest, every nation that is prepared to help itself can count on the help of the United States.

The bomb blasts in South Asia should serve as a wake-up call to the world. The Cold War has ended, but the danger posed by nuclear weapons obviously has not. We must do all we can to reduce the role that nuclear weapons play and the risks that they entail. And we are.

President Clinton has proposed to Russia a new round of arms reductions that could bring our arsenals down to 80% below Cold War peaks.

We are working hard to ensure that all nuclear materials are securely guarded and safely handled, so that no nukes become loose nukes.

We have made stopping the spread of nuclear and biological weapons and poison gas a top priority in our relations with Russia, China, Ukraine and other key countries.

And last year, the President submitted to the Senate a Comprehensive Test Ban Treaty to ban nuclear explosive tests of any size, for any purpose, in any place, for all time. There could be no greater gift to the future. Now, more than ever, India and Pakistan should sign that agreement.

And, now more than ever, the United States Senate should stop shilly-shallying around and approve it for America. Because if we want others to refrain from nuclear tests, and we do; others will want us to promise the same; and we should. On this critical issue, at this perilous time, our leadership should be unambiguous, decisive and strong.

Tragically, one of the recurring themes of the twentieth century and of all history has been the competition by different nations and peoples for land, resources and power. As the new century draws near, our corresponding challenge is to restrain and channel such competitions, so that differences are resolved peacefully and with respect for the legitimate rights of all.

Here again, almost wherever you look, you will see people struggling to reconcile their hopes for the future with their memories of the past. You will see some whose actions and thoughts are dictated almost entirely by old grievances, who are embittered and think only of revenge. They are the prisoners of history.

But you will see others who share the same memories and bear the same scars, but are nevertheless taking courageous action to find common ground with old adversaries. They are the shapers of history. And they are driven by hope and determination to build a future for their children that is better than the past.

You can be proud that the United States is standing shoulder to shoulder with the peacemakers against the bombthrowers; supporting the Good Friday agreement in Northern Ireland; trying to end conflict in the Horn of Africa; working with our partners to stop violence and repression in the Balkans; and striving to overcome setbacks in the quest for a just and lasting peace in the Middle East.

In each case, America is on the side of those determined not to re-live the past, but rather to learn from it and improve upon it.

That is not international social work, as some suggest. It is smart for America, because we are better off when regional conflicts do not arise, threatening friends, creating economic disruptions and generating refugees. And it is also right to help others avoid unnecessary bloodshed, and enable people to enjoy what President Clinton has called the quiet miracle of a normal life.

The divide between past and future is evident also in attitudes towards the environment where, all too often, we still hear the old conventional wisdom:

"Don't worry, our natural resources are inexhaustible."

"Don't act, environmental protection costs too much."

"Don't get excited, nature can recover on her own from even the worst pollution."

Well, I can't speak for Mother Nature, but not only am I a mother, I am a grandmother of three, and there are times I want to shout from the rooftops, "Wake up."

We are about to enter a century when there will be far more of us around the world, living closer together, consuming more, demanding more, using more and throwing more away.

Isn't it only common sense that we take reasonable steps to restrain population growth and safeguard the health of our air and the cleanliness of our rivers, lakes and coasts? For if we fail to do that, we will deny our children and our children's children the legacy of abundance we ourselves inherited.

That would be a felony against the future. And it is not acceptable—to you, or to me.

We have to recognize, moreover, that effective environmental protection must be a multinational enterprise. It requires global action.

Today, leading scientists agree that greenhouse gases are warming our planet.

Those stuck in the past say:

"Don't worry, let's keep pumping more and more of those gases into our atmosphere. Let's hope the freakish tornadoes and floods we've been experiencing are not related to global climate change. Let's choose to believe that the predicted sea level rise and the sudden changes in farm production won't happen. Let's pretend that the anticipated increase in heat-related death and disease will not strike—or at least not us."

"Better yet, let's not think about it at all. Let's forget, for example, that the past five months have been the hottest January to May in recorded history. Let's wrap ourselves in denial and bury ourselves like an un-Golden Gopher in the sand."

I have a different view. I don't think America should hide. I think America should lead.

We emit more greenhouse gases than any other country—by far. We should set an example. That is the only way to persuade developing countries such as China, India and Brazil to grow in ways that are environmentally friendly. And that matters because, if they repeat our mistakes, we may find our nation and our world increasingly unlivable. In time, we could face a slow motion environmental Armageddon.

That is why the Clinton Administration is working to ensure that both industrialized and developing countries participate in the effort to control global climate change.

We have adopted an approach that will provide a boon to the new environmental technologies America has developed. We have agreed to targets for reducing greenhouse gas emissions that are achievable and fair.

Above all, we are insisting that action be taken now—not twenty years from now—when the costs will be higher and the job much harder. In this historic effort, we will need, and I hope we will have, the wholehearted support of the North Star State.

Finally, the divide between future and past is evident in attitudes around the world toward democracy and human rights.

Some cling to the false sense of order that comes when political dissent is stifled and everyone knows their place. They haul out the old stereotypes and say that, "Well, freedom may work in some places, but the people in such and such a country are not ready; they do not really want it; they do not really need it."

To use a diplomatic term of art, that is balderdash.

When I was still a little girl, my family was driven twice from its home—first by Hitler and then by Stalin. So call me prejudiced. But I believe in freedom.

I believe that, for a society to reach its potential, its people must be free to choose their leaders, publish their thoughts, worship their God and pursue their dreams.

That is a lesson we have learned time and again this century, from South Africa to South Korea and from Central Europe to Central America. It is a lesson we hope will be applied now in Indonesia and Nigeria. In each country, new leaders have an historic opportunity to bring their nation into the democratic fold. If that is their choice, the United States will do all it can to help.

Because, if we want the circle of freedom to grow, we must assist those who are doing their best to help themselves by nurturing civil liberties, defeating crime, creating open markets, and building democratic institutions.

Second, we must be willing to speak out for human rights and for religious and political freedoms whether they are under assault in a small country such as Burma or a big country such as China. And if we are told to mind our own business, we must respond that human rights are our business because, as Martin Luther King once said, "Injustice anywhere is a threat to justice everywhere."

Third, we must strive to improve working conditions around the world. Because I suspect you are like me. When we buy a blouse or a shirt, we want to know that it was not produced by people who are under-age, under coercion, in prison or denied their basic right to organize.

We Americans cannot and will not accept a global economy that rewards the lowest bidder without regard to standards. We want a future where profits come from perspiration and inspiration, not exploitation.

Fourth, we must do all we can to advance the status of women, because no country can grow strong and free when denied the talents of half its people.

In years past, we have made enormous progress. But today, around the world, terrible abuses are still being committed against women. These include domestic violence, dowry murders, mutilation and forced prostitution. Some say all this is cultural and there's nothing we can do about it. I say it's criminal and we each have an obligation to stop it.

Finally, the United States must continue to lead the world in its support for the international war crimes tribunals, because we believe that the perpetrators of genocide and ethnic cleansing should be held accountable and those who see rape as just another tactic of war must pay for their crimes.

Members of the Class of 1998: Today, you will graduate into a world of accelerating and astonishing change, where technological breakthroughs occur daily, trends may disappear in a week, and events of just a few years ago can seem like ancient history.

But some things have not changed.

The dynamism of the Twin Cities.

The beauty of the Land of Ten Thousand Lakes.

The excellence of this College and University.

The integrity of Walter Mondale.

And the purpose of America.

Fifty years ago, across the river in St. Paul, President Harry Truman spoke of the strength of democracy and of our country. He did not stress the power of our armed forces, though powerful they were.

He did not mention the mighty American economy, though we were responsible for almost half of the world's production at the time. He did not emphasize the vastness of our territory or the size of our population. He spoke instead of a deeper and more profound source of strength.

"Hitler", said President Truman, "learned that efficiency without justice is a vain thing. Democracy does not work that way. Democracy is a matter of faith—a faith in the soul of man—a faith in human rights. That is the kind of faith that moves mountains—that's the kind of faith that hurled the (resources of the) Iron Range at the Nazis."

"Faith gives value to all things," President Truman concluded, "Without faith, the people perish."

This afternoon, at this celebration of warm memory and high expectation, I summon each of you in the name of our country and of all who have worked and sacrificed to build it, to embrace the faith that your courage and your perseverance will make a difference.

And that every life changed by your example; every community enriched by your giving; every problem solved by your diligence; and every barrier to justice brought down by your determination, will ennoble your own life, inspire others, help fulfill the American Dream, and explode outward the boundaries of what is achievable on this earth.

Class of 1998: As I look out among you, all I see are future shapers and history makers. The world is waiting. The new century is yours to build. Go for it. And may God bless you all. Thank you very much.

A TRIBUTE TO THE ORDER OF AMERICAN HELLENIC EDUCATIONAL PROGRESSIVE ASSOCIATION (AHEPA) CHAPTER NUMBER 78

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. VISCLOSKY. Mr. Speaker, I am pleased to commend the Order of American Hellenic Educational Progressive Association (Ahepa), Chapter Number 78, who in conjunction with the Daughters of Penelope, Mentor Chapter Number 81, will be hosting the 68th Hoosier District Number 12 Annual Convention in Merrillville, Indiana this weekend, June 19–21, 1998. On Saturday, June 20, as part of the convention's festivities, the following six outstanding members of the Order of Ahepa, and the Northwest Indiana community will be receiving their prestigious Fifty Year Member Pins: Mr. Spiro Cappony, of Griffith; Mr. James Kallimani, of Gary; Mr. Deno Manolopoulos, of Valparaiso; Mr. Nick Pangere, of Merrillville; Mr. John Trakas, of Crown Point; and Mr. Tony Zerites, of Crown Point.

Each of these six men has dedicated fifty years of service to all facets of the Order of Ahepa, his community, and the noteworthy humanitarian charities and activities to which the

Order or Ahepa donates effort, time, and money. These loyal and dedicated individuals share this prestigious honor with approximately fifty-seven additional Chapter 78 members who have already attained Fifty Year Member status.

The Order of Ahepa is an international fraternal order with chapters in the United States, Canada, Australia, New Zealand, and the Bahama Islands. It was founded in 1922 in Atlanta, Georgia, to help immigrants from Europe, especially Greece, assimilate into the American way of life. It taught the new arrivals the customs and language, and helped them to become good, productive citizens in their new, adopted country. Today, the Order of Ahepa is still concerned with aiding immigrants, as well as monitoring the current events in Greece, becoming involved with the region's community, and supporting the aging members of the Northwest Indiana Greek community. Nationally, the Order of Ahepa works with the United States Department of Housing and Urban Development (HUD) to build and maintain senior citizen apartments. Chapter 78 of the Order of Ahepa, based in Merrillville, is quite proud of the three 50-unit buildings that it maintains in conjunction with HUD and the Town Board of Merrillville. Indeed, I commend the Order of Ahepa for providing a safe, clean living environment for area seniors.

Besides the outstanding senior housing program, Chapter 78 of the Order of Ahepa supports many other charitable organizations, including food pantries at the St. Constantine Cathedral in Merrillville and another one in Hobart, and St. Basil's Academy in Boston, Massachusetts. Besides helping other charitable organizations, the local Order of Ahepa Chapter directly helps such groups as Hearing Impaired Children in the Catholic Diocese of Gary; the Merrillville and Hobart Police Departments; the Hobart Fire Department's school fire safety awareness programs; the Greek Orthodox Cathedral; Our Lady of Perpetual Help's Ministry to the Physically and Mentally Challenged; and Holy Cross College in Boston.

Mr. Speaker, I ask you and my other distinguished colleagues to join me om saluting Spiro Cappony, James Kallimani, Deno Manolopoulos, Nick Pangere, John Trakas, and Tony Zerites, of the Chapter 78 Order of Ahepa, for their distinguished service, dedication, and leadership. Through their hard work and commitment, they have furthered the goals of the Order of Ahepa in bringing together the members of the Greek community for the betterment of everyone in Northwest Indiana.

IN HONOR OF LA SAGRADA FAMILIA PARISH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. KUCINICH. Mr. Speaker, I rise today to honor La Sagrada Familia Parish, which is celebrating its dedication on June 21.

The Hispanic Catholic community of Cleveland has wanted a parish of its own since the early 1950s. At that point there were at least five different parishes that Spanish speaking people attended. By the early 1970s the Hispanic Catholic community had grown so large that it needed its own parish. In 1973, a small group began with a special service at St. Stephen's Church. Eventually developed into the community of San Juan Bautista. There were still many people without a parish, however, so in 1980 the idea for La Sagrada Familia Parish began. It took eighteen years, but the dream is now a reality. On June 21 the dedication ceremony will take place.

To understand the magnitude of the accomplishment, we must recognize the collective contribution of this congregation: Persistence, a dedication to hard work, a devotion to the community, and a commitment to progress. The La Sagrada Familia Parish has demonstrated that vision, combined with spirit, leads to boundless achievement.

The Hispanic Catholic community has added a spirit of diversity and tradition to the neighborhood of the near west side. Always willing to help others, the community has made a difference, taking advantage of resources of time and caring to improve the lot of its neighbors in need. The community has waited for a long time for a parish of its own, and with La Sagrada Familia, the dream is accomplished, the prayers have been answered. The dedication of La Sagrada Familia Parish serves as a reminder of the community's devotion to the service of others. The dedication of this church should be a source of pride for all of Cleveland's Hispanic Catholic community.

La Sagrada Familia Parish is the product of years of planning, fund-raising, and hard work. This is a proud moment for Cleveland and its Hispanic Catholic community. My fellow colleagues, please join me in congratulating this parish and in wishing parishioners many happy years in their new home.

WELCOMING THE FIRST-EVER DISTRICT OF COLUMBIA WNBA TEAM—THE WASHINGTON MYSTICS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Ms. NORTON. Mr. Speaker, I am proud to welcome the first-ever D.C. Women's National Basketball Association team to our nation's capital. This moment comes on top of other news that the District for the first time received acclaim as the best place to live in the East from Money Magazine. Together these firsts affirm that Washington, D.C. is truly a special city, and not only because D.C. is our nation's capital.

Tomorrow, I will join thousands of fans at the MCI Center to see our first home game against Utah. The District is very proud of this team, which will be led by standout shooting guard Nikki McCray, the lead scorer on the 1996 gold medal winning U.S. Olympic team. Head Coach Jim Lewis promises a full-court offense, using the fast break and aggressive defense, which are sure to be exciting viewing for the fans here in Washington.

I would also like to commend and thank team owner, Abe Pollin, Irene Pollin and Susan O'Malley, president of the Mystics organization, for their vision and commitment to making women's professional basketball a reality here in the District.

This team is important to the fans here in the District, including the many young girls among them who look to these outstanding women athletes as role models. Last year, we celebrated the 25th anniversary of Title IX and today the fruits of this achievement are being recognized. This important legislation contributed in large part to the participation of more than 100,000 women in intercollegiate athletics in 1997, a fourfold increase since 1971. In the 1996 Summer Olympic Games, American women won a record 19 Olympic medals. Thousands of women today, including many WNBA players have benefitted from athletic scholarships that simply were unheard of before Title IX. The number of girls participating in high school athletics has risen from fewer than 300,000 in 1971 to 2.4 million today. Girls' participation in high school basketball increased 300% from 1971 to 1995! Research suggests that girls who participate in sports are more likely to experience academic success and to graduate from high school than those who do not play sports. Half of all girls who participate in sports experience higher-than-average levels of self-esteem and less depression.

We welcome the Washington Mystics' team—Nikki McCray, Heidi Burge, Deborah Carter, Keri Chaconas, Tammy Jackson, Penny Moore, Murriel Page, Alessandra Santos de Oliveira, Adreinne Shuler, Leila de Souza Sobral, and Rita Williams. We look forward to their contributions to the community and to the basketball profession. Go Mystics!

TRIBUTE TO MR. ELLIOT ROBSON

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. FORD. Mr. Speaker, Mr. Speaker, I rise today to ask my colleagues in the House of Representatives to join me in honoring an accomplished young man from Memphis, Tennessee, Mr. Elliot Robson. As a student at White Station High School in Memphis, Tennessee, Elliot has excelled in all of his subjects, but he has developed exceptional competence in history.

This week, Mr. Robson is participating in the National History Day Competition at University of Maryland at College Park where he is competing with approximately 78 of his peers for the Senior Individual Exhibit Award. This national competition is the culmination of a rigorous set of contests at the local and state level where middle, junior, and high school students conduct primary research, write papers, and prepare media presentations on significant historical events.

National History Day is the product of a year-long educational program aimed at fostering achievement and intellectual growth among students from all backgrounds and regions of the nation. This year, the National

History Day theme is "Migrations in History: People, Ideas, Culture." Mr. Robson chose to study Jewish immigration, a topic about which he gained knowledge during his education at Beth Sholom Religious School.

Mr. Robson is to be commended for his success. I ask my colleagues to join me in honoring an individual who through his efforts in this competition has demonstrated exceptional educational achievement. I urge Mr. Robson to continue to build upon this strong educational base and to continue to provide a model for other students around the country. Please join me in commending Mr. Robson and wishing him the best in his future endeavors.

GAMBLING AND AMERICA'S YOUTH

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1998

Mr. WOLF. Mr. Speaker, I want to call to my colleagues' attention a story on the front page of the June 16 New York Times titled, "Those Seductive Snake Eyes: Tales of Growing Up Gambling." The bad news is that gambling is growing. The worse news is that gambling addiction is growing fastest among young people.

The article says, "There is a growing concern among experts on compulsive gambling about the number of youths who—confronted with state lotteries, the growth of family-oriented casinos and sometimes lax enforcement of wagering laws—gamble at an earlier and earlier age and gamble excessively."

The story quotes a recent Harvard Medical School study which was conducted by Dr. Howard Shaffer which found that the rate of problem gambling among adolescents is more than twice the rate for adults.

This article is shocking. It cites stories of young people who have hit the bottom young—and all because of gambling.

One young man got hooked on gambling as a teenager. The problem was so bad, his parents had to put locks on all the rooms and closets in the house so he wouldn't run out and sell the family belongings to gamble. He has been to prison twice for credit card fraud and writing false checks. Later in the article, he talks about how he first got interested in gambling. When he was growing up, he used to help his grandmother pick lottery numbers at a neighborhood store, and he used to go with her on her gambling trips to Atlantic City. He would wait for her outside the casino, peering in the window and wishing he could play, too.

The article talks about another young person who started gambling when he was 13 years old. With his buddies, this teen used to play craps near his house, place bets on pick-up basketball games, and play a dice game called "see-low." Now he is in a treatment center for drug and gambling problems.

The New York Times piece said that in one high school in the Northeast U.S., kids said they knew a fellow student who was a professional bookie who booked bets right there at their high school. Amazingly, that school set up a mock-casino as part of its prom night festivities. The school principal said the students had no problem with the various games—they knew them well and apparently needed no coaching.

But this is a problem everywhere, in all of America. According to the article, a Louisiana State University study conducted last year found that among Louisiana young people aged 18 to 21, one in seven were, and I quote, "problem gamblers, some of them pathological—youths with a chronic and progessive psychological disorder characterized by an emotional dependence on gambling and a loss of control over their gambling."

Everyone is worried about tobacco use among teenagers, and I am, too. But we've got another problem, and we really need to pay attention.

I hope this country wakes up. I hope our governors wake up. I hope this Congress wakes up.

[From the New York Times, June 16, 1998]

THOSE SEDUCTIVE SNAKE EYES: TALES OF GROWING UP GAMBLING

(By Brett Pulley)

ATLANTIC CITY—Like a first kiss, getting the car keys for the first time or walking into a bar and buying a first drink, gambling has become a rite of passage for young people on their way to adulthood.

With casinos in 26 states and lotteries in 38, youths who have watched their parents choose from a hefty menu of legal gambling activities right in their backyards are going on dates, spending their prom nights and joining college classmates at the nearest casinos.

Along with this change in the American cultural scene, there is a growing concern among experts on compulsive gambling about the number of youths who—confronted with state lotteries, the growth of family-oriented casinos and sometimes lax enforcement of wagering laws—gamble at an earlier and earlier age and gamble excessively.

These experts fear that the proliferation of youthful gambling will lead to more cases like that of a young Philadelphia man who became an addicted gambler as a teen-ager. For the young man, now 27, the "bottom" came after he had made two trips to prison for credit card fraud and writing false checks, attempted suicide and robbed his family.

"By the time I was 17, my parents had put a lock on everything in the house—bedrooms, pantries, closets," said the man, Michael, who is in a treatment program for compulsive gamblers. Like other addicts in recovery programs, Michael agreed to be identified only by his first name. "If I could take 30 towels out of the linen closet I would sell them for $10 to place a bet," he recalled.

A study conducted last year by Louisiana State University found that one in seven Louisianians ages 18 to 21 were problem gamblers, some of them pathological—youths with a chronic and progressive psychological disorder characterized by an emotional dependence on gambling and a loss of control over their gambling.

Dr. Howard Shaffer, a professor of psychology at Harvard University, recently conducted an analysis of nationwide studies of gambling addiction. He found that the rate of problem gambling among adolescents was 9.4 percent, more than twice the 3.8 percent rate for adults. "Young people have been gambling since the beginning of time," he said. "But I think now, for the first time, young people are growing up having lived their entire lives in a social environment where gambling is promoted and socially accepted.

"It used to be that young people said, 'I'm 21, let's go have a drink.' Now they say, 'I'm 21, let's go gamble'."

Children get their lessons in wagering all around them—from the sports trading cards that they buy hoping to find one with an instant and large monetary value, to the chocolate chip cookie company that advertises during Saturday morning cartoons, offering $1,000 to the lucky child who buys a package with the chocolate chips missing. And although children have been gambling for years, the fundamental principle of gambling—buying a chance to win more money—is indeed more pervasive in the lives of young people than it has ever been, some experts say.

The local governments that sponsor lotteries, as well as the casino industry and other businesses, do their part, whether intentional or not, to enhance gambling's appeal in the eyes of the young. Lottery scratch cards have bright, cartoonish graphics. Video poker machines resemble the video machines that a generation of children have grown up playing. Video arcades for children along the Boardwalk in Atlantic City include reconditioned slot machines that work just like the real thing but offer prizes instead of money. And the casino industry, by surrounding itself with amusement parks and attractions that appeal to the young, has given parents a reason to bring children along when they visit places like Atlantic City and Las Vegas, introducing adolescents to casinos and cultivating future gamblers.

"Market-savvy managers are grooming the next generation," said Marvin Roffman, a Philadelphia-based gambling analyst. "The kids go to the amusement park for the day, and when the family gets back to the hotel room, Dad is talking about how he did at the blackjack tables and Mom is talking about how she did at the slots. The kids are listening and it's making an impression on them."

With so many other things to worry about, like teen-age pregnancy, drug abuse and drunken driving, many parents and educators say they have not yet focused on gambling as one of their major concerns.

"I know we have students, probably a large number of students, who gamble," conceded William Steele, the principal of Atlantic City High School. On the desk in his outer office, there is a stack of pamphlets for students to read about compulsive gambling. And although the school's student resource center lists counseling for problem gambling as one of the services it provides, Mr. Steele admitted that little has been done to encourage students to seek help for gambling problems. "It's not an area that we have taken a keen interest in," he said.

It is true that like other rites of passage, gambling will prove harmless in the long term for most of the young people who try it. Dr. Shaffer said that many teen-agers experimented with gambling and lost interest as they became adults. One primary reason that teen-agers are so interested in gambling, he said, is that adults have failed to inform them of the dangers. "I think it's because of the whole social milieu that we've provided these young people," he said.

THE PROBLEM—TEEN-AGERS LOSING CONTROL OF THE DICE

While much is left to be learned about the long-term impact of gambling's pervasiveness, it is already quite clear that some

youths are destined to have problems with their gambling. Gambling experts estimate that 10 to 15 percent of youths who gamble become "problem gamblers," meaning they suffer some loss of control over their gambling behavior. And according to the Council on Compulsive Gambling of New Jersey, of those who experience more severe problems and become pathological gamblers, most are people who start gambling before they reach 14.

One such case is that of Malcolm, a 17-year-old youth from Plainfield, N.J., who at 13 was playing craps in his neighborhood and wagering on pick-up basketball games and "see-low," a game played with three dice that is popular among teen-age gamblers.

"I always gambled, so I thought that I may have a problem," Malcolm said. After a recent conviction for marijuana possession, Malcolm was sent to New Hope Foundation, an in-patient addiction center in Marlboro, N.J. Compulsive gambling was diagnosed, and now he receives treatment for both drug and gambling problems.

Cole DiMattio, one of Malcolm's counselors at the center, said that it was Malcolm's interest in gambling that led him to drugs. "All of his gambling," Mr. DiMattio said, "looking for that crowd, brought him into the drug culture." When he was a child, Malcolm said in a recent telephone interview, his parents often played the state lottery and visited the casinos in Atlantic City. "They didn't take me with them" he said. "But I wanted to go."

Valerie Lorenz, executive director of the Compulsive Gambling Center, a treatment program in Baltimore, said that while many teen-agers were compulsive gamblers, few sought treatment while they were still in their teens. "It just takes a while for the addiction to develop," she said.

Michael is a case in point. He traced his interest in gambling back to growing up in Phiadephia, where he helped his grandmother pick lottery numbers at the corner store and joined her on frequent trips to Atlantic City, an hour's drive away. He recalled standing outside the old Playboy casino, peering through its gigantic window.

"I stood outside that glass and watched my grandmother and thought, all I ever want in life is to be on the other side of that glass," he said.

He got on the other side before long, he said, and by 15 he had used fake ID's and was a regular at the casinos, receiving free limousine rides to and from Philadelphia and compliementary hotel rooms from casinos that rarely qestioned his age. Betting $100 to $2,000 a hand on blackjack, he financed his gambling any way he could. He said he robbed local prostitutes several times and in a single week wrote $35,000 in bad checks at the bank where his father was a vice president.

"One of those prostitutes could have blown my head off," he said. "But it didn't matter, as long as I was able to stay in action, that's all that mattered." He is now married, working at a bakery and living in southern New Jersey. He attends meetings of Gamblers Anonymous, he said, and has not placed a bet in four years.

But not all young problem gamblers are able to withstand the travails wrought by their excessive wagering. Last November, just after running up a $6,000 debt betting on the World Series, Moshe Pergament, a 19-year-old college student from an affluent Long Island family, decided to end his gambling, and his life. He bought a toy handgun and drove erratically on the Long Island Expressway, causing police officers to stop him. When he was pulled over, he aimed the gun at the officers, who responded by shooting and killing him. The police said they found letters in Mr. Pergament's car that revealed the gambling debt and his intention of having the police shoot him, a phenomenon known as "sucide by cop."

THE POLICING—OFFICIALS WATCH, TRYING TO RESPOND

In parts of the country where gambling has flourished especially fast, the problem with under-age gambling is particularly acute. In Louisiana, a state that has long had horse racing and back-room card games but over the last decade has added riverboat casinos, video poker machines, a state lottery and casinos operated by American Indians, officials were jolted into action after the Louisiana State University study found that youths there were three times as likely as adults to become problem gamblers. The study, conducted by the department of psychiatry, surveyed 12,066 adolescents grades six through twelve in public and private schools in the 1996–97 school year.

The Louisiana State Legislature this year raised to 21 from 18 the minimum age for playing the state lottery and video poker machines inside more than 5,000 bars, restaurants and truck stops. Most states require lottery players to be at least 18. About half the states with casinos or video poker and slot machines allow 18-year-olds to play, while the other half, including Nevada and New Jersey, require those gamblers to be at least 21. The majority of states with parimutuel betting on events like horse racing, dog racing and jai alai allow 18-year-olds to bet.

In Louisiana, after a local television reporter used an undercover camera recently to show that under age gamblers were easily boarding the more than a dozen casino riverboats docked around the state, state gambling regulators are now threatening to rescind the licenses of casino operators who cannot keep under-age gamblers off their boats. In other states with legalized gambling, there are similar concerns. A citizen watchdog group in Illinois, for example, recently filmed under-age students drinking and gambling on the state's riverboats. The state gaming board then took steps to enforce age minimums.

"The truth of the matter is under-age gambling is a little like under-age drinking," said John Kennedy, Louisiana's secretary of revenue and a member of the state gaming control board. "Minors, by definition, don't have the reasoning power of adults. If you don't have the reasoning power, then you can't know your limits."

Still, many teen-agers simply do not want to wait until they are old enough to gamble. In Atlantic City last year 38,502 juveniles were escorted out of the city's 12 casinos, according to the state's casino control commission. An additional 52,364 under-age would-be gamblers tried to enter a casino and were turned away.

Too often, though, experts say, enforcement is lax.

A familiar scene played itself out recently at the Tropicana Casino here. Madelyn Carabello was locked in a hypnotic trance as she dropped coins in a slot machine and watched the reels spin to a stop. After she had been playing for an hour and a half, a security guard approached her and asked for identification, then escorted her out. If her flawlessly youthful face, striped denim jeans and tennis shoes were not enough to tip the casino's security staff that it had an under-age gambler in its midst, surely the gold pendant around her neck was a dead giveaway. It was a large heart, surrounding the numeral 19, her age.

But despite her age, it was not the first time that Ms. Carabello, a freshman at the Fashion Institute of Technology in New York City, had gambled in a casino.

She recalled the eagerness with which she and 10 classmates boarded a gambling boat on their prom night in Miami.

"We heard that you only had to be 18" to gamble on the boat, she said. "I had heard how it was in a casino, that you could win money and stuff. I was like, 'Okay, let's do it.'"

Youths gamble because they see everyone around them doing it, not because they care that lotteries are sanctioned by the state or that casinos are legal, said Henry Lesieur, president of the Institute for Problem Gambling in Pawtucket, R.I.

"I don't think that kids are thinking at this level," he said, "whether the state sanctions it or not is irrelevant. What is relevant is that it is available in places like the grocery store and they can see it being advertised on TV."

The casino industry, keenly aware of the potential for compulsive gambling to become the bane that nicotine addiction is to the tobacco industry—and aware that a Presidential commission will issue a comprehensive report next year on the impact of gambling on the country—has recently begun to acknowledge the problem and take preemptive steps. New programs to discourage under-age gambling are being paid for and implemented by the industry, and studies on compulsive gambling, particularly among under-age gamblers, are being conducted through research grants from the industry.

"Most of the under-age gaming going on in this country is not going on inside the casinos," said Frank Fahrenkopf, president of the American Gaming Association, the casino industry's lobbying organization. He pointed out that many young people gamble on sports and play lotteries. "We are trying to reach out to that area of the population."

The interest that children develop in gambling often starts long before they are old enough to sneak into a casino. A group of Long Island parents, concerned that their young children were hooked on sports trading cards, filed lawsuits against six of the major sports trading card companies in 1996, claiming that the companies have colluded to conduct an illegal gambling enterprise by inserting rare and valuable cards that could instantly be redeemed for cash. The lawsuits, filed in New York, New Jersey, Texas and California, are pending, although one claim in Texas was dismissed by the court there. James M. Schaefer, an anthropologist at Union College in Schenectady, N.Y., who conducted research for the plaintiffs, visited card shops and sports memorabilia shows where the cards are bought and traded. What he found was that children as young as 6 were doing what is known as insert card chasing, spending $2 to $6 for a pack of cards, ripping them open, quickly flipping through them in search of the valuable inserts, discarding the "garbage cards" and buying more.

"The kids are driven to find a valuable insert card, and they'll spend all the money they have to find it." Mr. Schaefer said. Some gambling opponents have raised similar concerns about other seemingly benign products aimed at children, like the scratch-and-win promotions often offered by McDonald's, and a current promotion by Nabisco,

which offers $1,000 to anyone who finds a bag of Chips a'hoy cookies without any chocolate chips. Ann Smith, a spokeswoman for Nabisco, denied that such promotions encourage gambling. "They are purchasing the product," she said. "It's a consumer promotion geared toward added value."

THE NEXT BET—COPING IN A CULTURE OF GAMBLING

Many students in places like Atlantic City become familiar with casino games because they work after school or in summer at the casinos. Although customers must be 21, the minimum age for working at a casino is 18. Many young gamblers said that they had jobs and financed their habit using the same disposable income that other young people spend at the movies or the mall. However, gambling experts said that many of those who gamble at school or elsewhere come from affluent families and have more money than the average student. Casinos here and in other cities have created opportunities for young people. In addition to jobs, they provide a wide range of assistance to local teeagers, from scholarships to mentoring programs. But with some of those same young people becoming increasingly fascinated with gambling, some communities are now questioning whether they should accept any largess from the casinos in their neighborhoods.

In Louisiana, casino employees participate in career days at high schools, and casinos have donated to students everything from pumpkins for Halloween to playing cards emblazoned with casino logos. But now, after opponents of gambling complained that these donations were only veiled attempts by the casinos to cultivate future loyal customers, gambling regulators are considering a ban on donations from casinos to students. "We are trying to make a determination as to whether the stuff they do in the schools is marketing," said Hillary Crain, chairman of the state's gaming control board.

Many experts said that the best method for dealing with the escalating interest in gambling among youths is to teach them more about the potential downside to gambling, and to get them to better understand probability, the ratio of the number of times that something will probably occur to the number of possible occurrences. If they better understood the extent to which the odds are against them, experts said, fewer children would be so anxious to gamble. Still, said Edward Looney, the executive director of the Council on Compulsive Gambling of New Jersey, "Youngsters are youngsters, and gambling is an exciting thing for them to do because it's risky,"

But even as schools preach against gambling, in many places it has become a part of the culture of adolescence. Growing up in Warwick, R.I., where residents can bet on the state lottery, jai alai and dog races, play video lottery machines or drive to the Fox woods casino an hour away in Connecticut, Seth Jackson anxiously, awaited the day he would turn 21 and could step into a big, rambunctious casino to gamble to his heart's content.

"It was a big deal for me the first time," Mr. Jackson, 22 a senior at George Washington University, said during a recent "senior week" bus trip to Atlantic City, the gambling capital of the East Coast. "Everybody around me gambled when I was growing up." he said, as he stood surrounded by classmates and slot machines inside the Tropicana.

At Atlantic City High School here, students said that betting on sports and playing card games for money was common. Several students said in interviews that they knew of a fellow student who worked as a professional bookie, laying odds on games and collecting bets. "The guy books bets right in school," said Tom Le, 16 a sophomore.

In May, on the night of the school's senior prom, one of the activities arranged for the evening was a mock casino, set up inside the cafeteria. Students received clips and played casino games like blackjack and craps. "I was really astonished at how well they knew the games," said Mr. Steele, the principal. He said he believed that gambling had captured the fancy of young people because it made them feel like adults. "I guess it's a nice feeling to go into the casino, play and receive complimentary drinks," he said. "How can you tell them, here it is, it's exciting, but you can't do it? We have to face it, it's here to stay. It's a matter that's going to have to be dealt with. I don't know how. Just hope and pray that it's done on a small scale."